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

Aging, Department on[17]
Replace Analysis
Replace Chapter 21
Remove Reserved Chapters 24 to 28 and Chapter 29
Insert Reserved Chapters 24 to 29

Agriculture and Land Stewardship Department[21]
Replace Chapter 68

Attorney General[61]
Replace Analysis
Replace Chapter 34

Economic Development Authority[261]
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Remove Reserved Chapters 214 to 310
Insert Chapters 214 and 215 and Reserved Chapters 216 to 310

Iowa Public Employees’ Retirement System[495]
Replace Analysis
Replace Chapters 1 to 6
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Replace Chapters 19 and 20
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Replace Chapter 33

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Replace Analysis
Replace Chapter 7

Regents Board[681]
Replace Chapter 1

Transportation Department[761]
Replace Analysis
Replace Chapter 28
Replace Chapter 143
Replace Chapters 400 and 401
Replace Chapter 425
Replace Chapter 520
Replace Chapter 529
Replace Reserved Chapters 530 to 599 with Reserved Chapters 530 to 539
Insert Chapter 540 and Reserved Chapters 541 to 599
Replace Chapter 602
Replace Chapter 604
Replace Chapter 607
AGING, DEPARTMENT ON

Prior to 5/20/87, see Commission on the Aging

Delay: Effective date (June 24, 1987) of Chapters 1 to 18 delayed 70 days pursuant to Iowa Code section 17A.4(5) by the Administrative Rules Review Committee at their June 9, 1987, meeting.

[Prior to 1/27/10, see Elder Affairs Department]

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CHAPTER 21
THE SERVICE OF CASE MANAGEMENT

[Prior to 1/27/10, see Elder Affairs Department[321] Ch 21]

17—21.1(231) Authority. This chapter implements the service of case management as provided in Iowa Code section 231.23A and the federal Older Americans Act (OAA).
[ARC 2976C, IAB 3/15/17, effective 5/3/17]

17—21.2(231) Purpose. This chapter sets out client eligibility, covered services, program administration and program standards to assist clients in coordinating the use of the long-term living continuum which ranges from the independent access of congregate services to the delivery of support services in the home or through facility-based care for the clients served. The service of case management is designed to promote and support independent living of older Iowans funded through Title III (Grants to State and Community Programs on Aging) of the OAA or state funds distributed to the area agencies on aging (AAA) based upon their current area plan.
[ARC 2976C, IAB 3/15/17, effective 5/3/17]

17—21.3(231) General requirements for providers of case management services.

21.3(1) Qualifications to provide the service of case management. An individual providing the service of case management shall have, at a minimum, one of the following qualifications:
   a. A bachelor’s degree in the human services field including, but not limited to, social work, sociology, special education, rehabilitation counseling, and psychology.
   b. An associate’s degree and two years of full-time equivalent work experience in a human services field involving direct contact with service to people in overcoming social, economic, psychological or health problems.
   c. A license as a registered nurse in Iowa.

21.3(2) Continuing education requirements for the provider of the service of case management. An individual providing the service of case management shall:
   a. Attend during the term of employment annual and other case management training as required by the department.
   b. Obtain eight hours of relevant training annually. If eight hours of training are not provided in accordance with paragraph 21.3(2) “a,” the individual shall document training related to the provision of geriatric case management. Documentation shall be included in the individual’s personnel record.
   c. Complete the mandatory reporter requirements within 90 business days of hiring in accordance with Iowa Code chapter 235B. Each AAA shall ensure that all providers of the service of case management meet this requirement.

21.3(3) Background checks. Each AAA shall ensure and document that, prior to beginning employment, every potential provider of the service of case management shall have successfully completed a criminal history background check and child and dependent adult abuse record check.
   a. A background check includes, at a minimum, a request that the Iowa department of public safety perform a criminal history background check and that the department of human services perform child and dependent adult abuse record checks of every potential provider.
   b. If a potential provider has an unfavorable criminal history background check or child and dependent adult abuse record check, the potential provider shall not provide services under this chapter.

21.3(4) Contracting for case management services. An AAA may contract for the provision of the service of case management.
   a. The contractor and the individual providing the service of case management shall be subject to and comply with any applicable state or federal laws and regulations, including this chapter.
   b. For monitoring purposes, the department shall have access to all records related to the service of case management and all related facilities of the contractor.
   c. The AAA shall monitor the contractor in accordance with rule 17—6.10(231).
[ARC 2976C, IAB 3/15/17, effective 5/3/17]
17—21.4(231) Case management service activities. Case management service activities include the following components.

21.4(1) Client identification. The provider of the service of case management may identify clients through public education, awareness, and outreach.

21.4(2) Intake. The provider of the service of case management shall follow a defined intake process developed or approved by the department. To become eligible for the service of case management, a potential client with case management needs shall:
   a. Be a legal resident of the state of Iowa;
   b. Be aged 60 or older;
   c. Be in need of the service of case management based on a needs assessment as described in subrule 21.4(3);
   d. Be funded through Title III (Grants to State and Community Programs on Aging) of the OAA or state funds distributed to the AAA based upon their current area plan; and
   e. Not be entitled to receive case management services or case management service reimbursement from another source.

21.4(3) Needs assessment. A face-to-face comprehensive assessment, utilizing a standardized tool developed or approved by the department and preferably conducted in the client’s home or place of residence, must be conducted for each case management client to identify the conditions and needs of the client and to establish goals for services provided.

21.4(4) Service plan development. Based on a standardized form developed or approved by the department, a written service plan shall be prepared for each client. The service plan shall utilize appropriate and available resources.
   a. The service plan shall be developed within 20 calendar days of the needs assessment.
   b. The service plan shall identify available services and problem-solving efforts to meet the client’s determined needs and to enable the client to live with maximum possible independence.
   c. A copy of the service plan shall be given to the client or the client’s legal representative and shall be documented in the client’s file.

21.4(5) Service plan implementation. A referral of the client to an appropriate resource for service provision and problem resolution shall be made and documented in the client’s file. If the referral is made to an informal network (e.g., family, friends), the service and problem-solving arrangement agreed to regarding duties and responsibilities shall be documented in the client’s service plan. The following services shall be performed for each client, as appropriate and needed:
   a. Active intervention and advocacy on behalf of the client to access necessary services from community organizations and to resolve problems experienced by the client;
   b. Establishment of connections with service providers for the prompt and effective delivery of services needed by the client, including submission of instructions for service delivery to the appropriate service providers;
   c. Encouragement of informal care given by individuals, family, friends, neighbors, and community organizations, so that publicly supported services supplement rather than supplant the roles and responsibilities of these natural support systems.

21.4(6) Follow-up and reassessment of client status.
   a. Follow-up. Monthly monitoring of each client shall be conducted through telephone or face-to-face contact to ensure prompt and effective service delivery and response to changes in the client’s needs and status. All follow-up shall be documented in the client’s file.
   b. Reassessment. A face-to-face needs assessment of the client’s condition and needs must be conducted in accordance with subrule 21.4(3), preferably in the home of the client, no later than the twelfth month from the last completed needs assessment. This needs assessment must be conducted more frequently if a change in the client’s circumstances is identified in a follow-up or a report from a third party.

21.4(7) Client discharge.
   a. A client shall be discharged from the service of case management when any one of the following situations has occurred:
(1) The client dies;
(2) The client moves out of state;
(3) The client moves into a nursing facility and the stay is expected to be permanent;
(4) The client or the client’s legal representative requests termination of case management service;
(5) The client is unwilling or unable to adhere to the agreed-upon service plan;
(6) The client or the client’s legal representative refuses to provide access to information necessary for the development or implementation of the service plan;
(7) The service provider determines that the client’s needs cannot be met in a way that ensures the client’s health, safety and welfare;
(8) The service provider determines that the client’s goals are achieved and the client no longer requires the service of case management;
(9) The client becomes eligible for a comparable case management service from another funding source; or
(10) The AAA determines that funding is no longer available to provide the service of case management.

b. A point of contact identified by the AAA shall be notified of and approve all discharges prior to initiation of discharge action.

c. If the discharge is due to the circumstances given in subparagraphs 21.4(7)”a”(5) to 21.4(7)”a”(9), the AAA providing the service of case management shall provide a 30-day written notice to the client or the client’s legal representative stating the reasons for the discharge from case management and include the process for appealing the decision in accordance with rule 17—6.10(231).

21.4(8) Transfer. When a client moves from the AAA’s geographic service area, the AAA shall, with the documented consent of the client or the client’s legal representative, refer the client to the AAA serving the area to which the client has moved.

21.4(9) Monitoring and follow-up. The AAA shall, and the department may, monitor and follow up with providers of the service of case management.

a. Monitoring shall be conducted to determine whether:

(1) Services are being furnished in accordance with the client’s service plan, including the amount of service provided, the client’s attendance, and the client’s participation in the service.
(2) The client has declined services in the service plan.
(3) Communication is occurring among all providers to ensure coordination of services.
(4) Services in the service plan are meeting the identified needs of the client, including the client’s progress toward achieving the goals and actions determined in the service plan.

b. Monitoring shall include accessing and assessing the client, the places of service (including the client’s home when applicable), and all services.

21.4(10) Records and documentation.

a. A case management service provider shall maintain individual client records in a paper file or in a case management software database approved by the department. The case file for each client shall minimally include the following information:

(1) Intake form(s);
(2) Comprehensive needs assessment;
(3) Copies of release of information (if needed);
(4) Service plan;
(5) Record of referral(s) and request(s);
(6) Correspondence related to the case;
(7) Formal case notes, which include documentation of the follow-up as noted in paragraph 21.4(6)”a” or of case closure.

b. Except by written consent of the client or the client’s legal representative, the use or disclosure by any person of any information concerning a client for any purpose not directly connected with the administration of the responsibilities of the department, AAA or contractor is prohibited.
c. Upon change in AAA designation, the AAA which has been dedesignated shall transfer all specified records as prescribed by the department to the newly designated AAA.

These rules are intended to implement Iowa Code section 231.23A.

[ARC 2976C, IAB 3/15/17, effective 5/3/17]

[Filed 5/5/06, Notice 1/4/06—published 5/24/06, effective 7/1/06]
[Filed 6/12/08, Notice 3/26/08—published 7/2/08, effective 8/6/08]
[Filed Emergency ARC 8489B, IAB 1/27/10, effective 1/7/10]
[Filed ARC 2976C (Notice ARC 2851C, IAB 12/7/16), IAB 3/15/17, effective 5/3/17]
CHAPTER 24
ADULT DAY SERVICES PROGRAMS
Rescinded IAB 12/30/09, effective 1/1/10

CHAPTER 25
ASSISTED LIVING PROGRAMS
[Prior to 4/14/04, see 321—Ch 27]
Rescinded IAB 12/30/09, effective 1/1/10

CHAPTER 26
MONITORING, CIVIL PENALTIES, COMPLAINTS AND INVESTIGATION FOR ELDER GROUP HOMES, ADULT DAY SERVICES AND ASSISTED LIVING PROGRAMS
Rescinded IAB 12/30/09, effective 1/1/10

CHAPTER 27
FEES FOR ADULT DAY SERVICES AND ASSISTED LIVING PROGRAMS
Rescinded IAB 12/30/09, effective 1/1/10

CHAPTER 28
IOWA SENIOR LIVING PROGRAM—HOME- AND COMMUNITY-BASED SERVICES FOR SENIORS
[Prior to 1/27/10, see Elder Affairs Department[321] Ch 28]
Rescinded ARC 0625C, IAB 3/6/13, effective 4/10/13

CHAPTER 29
REDUCTION OF AREA AGENCIES ON AGING
Rescinded ARC 2977C, IAB 3/15/17, effective 5/3/17
CHAPTER 68
DAIRY

21—68.1(192,194) Definitions. In addition to the definition found in the Code of Iowa, the following terms shall mean:

“Habitual violator” is a producer or other dairy industry business entity that is regulated by the department, for whom the monthly official records for somatic cell counts, bacteria, cooling or added water show that the violation has occurred eight times in a 12-month period, including the accelerated testing counts; or that has received three, two-of-four warning letters in a 12-month period; or that has received a second three-of-five, off-the-market letter in a 12-month period; or that has been cited for unsanitary conditions three times in a 12-month period; or that has been found with a fourth positive antibiotic in a 12-month period.

“Imminent hazard to the public health” means any condition so serious as to require immediate action to protect the public health. It shall include, but is not limited to: pesticide, antibiotic, or any other substance in milk or milk products considered to be dangerous if consumed by humans.

“P.M.O.” means the Grade A Pasteurized Milk Ordinance, 2015 Revisions, from the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this chapter by reference and made a part of this chapter.

“Public health hazard” means any condition which, if not corrected, could endanger the public health.

“Qualified personnel” means employees certified or approved by the department to perform certain tasks as required by the Code of Iowa. It shall include, but not be limited to, dairy industry inspectors and hearing officers.

[ARC 8699B, IAB 4/21/10, effective 5/26/10; ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.2(192) Licenses and permits required.

68.2(1) Milk plant permit. A person who brings, sends into, or receives into this state, milk or milk products for storage, transfer, processing, sale or to offer for sale, shall possess a “milk plant” permit.

68.2(2) Grade A farm permit. A person who operates a dairy farm to produce “Grade A milk” shall possess a “Grade A farm” permit.

68.2(3) Grade B farm permit. A person who operates a dairy farm to produce milk to be used as “milk for manufacturing purposes” shall possess a “Grade B farm” permit.

68.2(4) Hauler/grader license. A person engaged in the transporting, transferring, sampling, weighing or measuring of milk or a person engaged as a sample courier shall possess a “hauler/grader” license.

68.2(5) Tester license. A person who tests a dairy product for fat content to establish a value of the product shall possess a “tester’s” license.

68.2(6) Milk truck license. A vehicle used primarily for collecting or transporting milk or milk product in the bulk shall possess a “milk truck” license.

68.2(7) Dairy distributor’s permit. A person primarily in the business of distributing dairy products shall possess a “dairy distributor” permit.

21—68.3(192) License application. Reserved.

21—68.4(192) Certification of personnel. Certification programs conducted by the department shall follow closely the procedures as outlined in the P.M.O., Appendix B.

68.4(1) Dairy industry inspectors. Reserved.

68.4(2) Field representative. The department shall provide a certification program for individuals who work as “quality control” officers in the dairy industry but are not employees of the department. An individual certified as a “field representative” may perform certain tasks for the department when authorized to do so by the department.
21—68.5(190,192,194) Milk tests. The department recognizes approved methods of testing milk or cream for milk fat and other dairy products as specified in Standard Methods for the Examination of Dairy Products (17th Edition). That publication is hereby incorporated into this rule by this reference and made part thereof insofar as applicable, and a copy is on file with the department.

All milk, graded or tested, as provided by Iowa Code chapters 192 and 194 shall be graded and tested by samples which shall be taken in the following manner:

1. Samples may only be taken from vats or tanks which pass the required organoleptic test.
2. The temperature of milk in bulk tanks from which the sample is to be taken must not be higher than 45 degrees Fahrenheit for Grade A milk and 50 degrees Fahrenheit for manufacturing milk.
3. The temperature of the milk in the bulk tank shall be recorded on the farm milk room record, on the collection record, and on the sample container.
4. The volume of the milk in the bulk tank shall then be measured and the measurement shall be recorded.
5. Bulk tanks of less than 1,000-gallon size shall be agitated for a period of not less than five minutes. Bulk tanks of 1,000 gallons or greater shall be agitated for a period of not less than ten minutes. However, if the manufacturer of the bulk tank provides in writing that a lesser time for agitation is acceptable given the design of the bulk tank, then the lesser time is acceptable if the agitation is done in a manner and time consistent with the manufacturer’s written instructions. In addition, the instructions must be conspicuously posted in the milk room. The instructions shall be laminated, framed under glass, or otherwise displayed so that the instructions will not deteriorate while displayed in the milk room.
6. The sample shall then be taken by using an approved sterile dipper and the milk shall be poured in an approved sterile sample container, until the sample container is three-quarters full.
7. The sample of milk shall then be immediately stored at a temperature of between 32 and 40 degrees Fahrenheit.
8. Grade A and Grade B milk shall not be picked up from a farm bulk milk tank when the milk volume in the tank is insufficient to completely submerge the bulk milk agitator paddle or, if there is more than one set of paddles, the lower set of agitator paddles into the milk.
9. No device, other than the bulk tank agitator, shall be used to agitate the milk in a farm bulk milk tank.
10. If the milk in a farm bulk milk tank cannot be properly agitated by the bulk tank agitator at the time of pickup by the milk hauler, the milk shall not be sold for human consumption.

This rule is intended to implement Iowa Code sections 194.4, 194.5, and 194.6.

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.6(190,192,194) Test bottles. Test bottles and pipettes as approved by the Standard Methods for the Examination of Dairy Products, 17th Edition, are approved for universal use in Iowa. All test bottles should be graduated to the half point.

This rule is intended to implement Iowa Code chapters 192 and 194.

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.7(190,192,194,195) Test transactions. Rescinded IAB 1/24/01, effective 2/28/01.

21—68.8(190,192,194,195) Cream testing. Rescinded IAB 1/24/01, effective 2/28/01.

21—68.9(192,194) Tester’s license. The examination for a tester’s license must be approved and administered by the department.

This rule is intended to implement Iowa Code sections 192.111 and 194.13.

21—68.10(192,194) Contaminating activities prohibited in milk plants. All “milk plants,” “creameries,” “transfer stations,” “receiving stations,” or any other facility for handling of bulk milk or milk products shall be a facility separated from any activity that could contaminate or tend to contaminate the milk or milk products.
21—68.11(192,194) Suspension of dairy farm permits.

68.11(1) Grade A and Grade B farm permit suspension and revocation. The department may temporarily suspend a Grade A or Grade B farm permit if the dairy farm fails to meet all the requirements as set forth in the P.M.O. or the Grade B United States Department of Agriculture document titled, “Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements,” effective July 21, 2011. A Grade A farm under temporary suspension of the Grade A permit may sell the milk as “milk for manufacturing purposes” until reinstated as a Grade A farm if the former Grade A farm meets the requirements necessary to sell Grade B milk. A Grade B farm under temporary suspension of the Grade B permit may sell milk as “Undergrade Class 3” until reinstated as a Grade B farm if the former Grade B farm meets the requirements of Undergrade Class 3. If an inspection reveals a violation which, in the opinion of the inspector, is an imminent hazard to the public health, the inspector shall take immediate action to prevent any milk believed to have been exposed to the hazard from entering commerce. In addition, the inspector shall immediately notify the department that such action has been taken. In other cases, if there is a repeat violation of a dairy standard as determined by two consecutive routine inspections of a dairy farm, the inspector shall immediately refer the violation to the department for action. The department may revoke the dairy permit of a person that the department determines is a habitual violator as defined in rule 21—68.1(192,194).

68.11(2) Summary suspension of dairy farm permits. If the department finds that the public health, safety or welfare imperatively requires emergency action, summary suspension of a permit may be ordered pending proceedings for revocation or other action. If a permit is summarily suspended, no milk or milk products may be sold or offered for sale until permit is reinstated.

The following situations or incidents are situations in which summary suspension is appropriate:

a. Unclean milk contact surfaces of equipment or utensils.
b. Filthy conditions in a milking barn or parlor or in a cattle housing area, including several days’ accumulation of manure in the milking barn gutters, calf pens or in other areas.
c. Filthy conditions in a cow yard and very dirty cows.
d. Filthy conditions in a milk room/milk house.
e. Water supply, water pressure, or water heating facilities not in compliance with standard operating procedures.
f. No access to hand-washing facility in the milk room/milk house.
g. Violation of standards under this chapter related to well construction or potability of water supply, including any cross connections between potable and nonpotable water sources.
h. Lack of an approved sanitizer in the milk room/milk house or adjacent storage area to meet the sanitizing requirements.
i. Visibly dirty udders and teats on cows being milked.
j. Milk not cooled in compliance with subrule 68.22(4).
k. Rodent activity in the milk room/milk house, or severe rodent activity in a milking barn or milking parlor or in a feed storage room.
l. Dead animals in the milking barn, parlor or cow yard.
m. Other situations where the department determines that conditions warrant immediate action to prevent an imminent threat to the public health or welfare.

68.11(3) A Grade A dairy producer whose permit has been suspended for a period of 12 consecutive months shall be downgraded to the Grade B market and be issued a Grade B permit.

[ARC 8699B, IAB 4/21/10, effective 5/26/10; ARC 2104C, IAB 8/19/15, effective 9/23/15]

GRADE A MILK

21—68.12(192) Milk standards. Standards for the production, processing, distribution, transportation, handling, sampling, examination, grading, labeling, sale and standards of identity of Grade A pasteurized milk, Grade A milk products and Grade A raw milk, the inspection of Grade A dairy herds, dairy farms, milk plants, milk receiving stations and milk transfer stations, the issuing, suspension and revocation of permits and licenses to milk producers, milk haulers, and milk distributors shall be regulated in
accordance with the provisions of the P.M.O., a copy of which is on file with the department and is incorporated into this rule by reference and made a part of this rule.

Where the mandatory compliance with the provisions of the appendixes therein is specified, the provisions shall be deemed a requirement of this rule.

Cottage cheese, dry curd cottage cheese and low fat cottage cheese bearing the Grade A label must conform to the standards of identity for Title 21, section 133 of the Code of Federal Regulations. However, cottage cheese, dry curd cottage cheese, and low fat cottage cheese shall not require a Grade A rating for sale within this state.

The discharge pipe on all gravity flow manure removal systems in milk barns shall be sufficient in size to handle the flow of manure generated by the cows using the system and any bedding materials or other materials that may enter the system.

Lighting systems shall be adequate to produce sufficient light as required by the Pasteurized Milk Ordinance. Such systems may include, but are not limited to, electrical powered lighting systems or pressurized white gasoline, pressurized kerosene, or battery powered lanterns. Such systems shall be designed and used in a manner that no odors can reasonably be expected to be emitted into the milk room unless there is sufficient ventilation to remove the odors. Lanterns shall be mounted on permanently affixed hooks and shall remain in place at all times.

If artificial lighting is provided by nonelectrical means, then a portable battery operated fluorescent light shall be made available for use and maintained in working order in the milk house. The fluorescent bulb shall either be shatterproof or shall be enclosed in a shatterproof enclosure.

Raw milk for pasteurization shall be cooled to 7° C (45° F) or less within two hours after milking. However, the blend temperature after the first milking and subsequent milkings shall not exceed 10° C (50° F). No specific bulk milk tank equipment is required in achieving this cooling standard; however, producers are expected to use all necessary diligence in achieving compliance.

This rule is intended to implement Iowa Code chapter 192.

21—68.13(192,194) Public health service requirements.

68.13(1) Certification. A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service “Methods of Making Sanitation Ratings of Milk Shippers,” 2015 Revision, shall be necessary to receive or retain a Grade A certification under Iowa Code chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, and a copy is on file with the department.

68.13(2) Documents. The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

2. “Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products,” as incorporated in the P.M.O., Appendix J.

This rule is intended to implement Iowa Code chapter 192.

[ARC 8699B, IAB 4/21/10, effective 5/26/10; ARC 2104C, IAB 8/19/15, effective 9/23/15; ARC 2078C, IAB 3/15/17, effective 4/19/17]

21—68.14(190,192,194,195) Laboratories. Evaluation of methods and reporting of results for approval of a laboratory shall be based on procedures and tests contained in “Standard Methods for the Examination of Dairy Products, 17th Edition, 2004,” and “Methods of Analysis of the Association of Official Analytical Chemists, 18th Edition, 2005.” These publications are hereby incorporated into this rule by this reference and made a part thereof insofar as applicable; a copy of each is on file with the department. The health authority shall accept, without the imposition of a fee for testing or inspection, supplies of milk and milk products from an area or an individual shipper not under routine inspection provided they are delivered in closed and date-coded containers; provided further that if the code date
has expired, reasonable inspection testing fees may be assessed the processor or establishment having care, custody and control of the milk and milk products.

This rule is intended to implement Iowa Code chapter 192.

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

GRADE B MILK

21—68.15(192,194) Milk standards. Standards for the production and processing of milk for manufacturing purposes shall conform to standards contained in the USDA document entitled “Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements,” dated July 21, 2011, which is hereby incorporated into this rule by reference and made a part thereof insofar as applicable, and a copy is on file with the department.

[ARC 8699B, IAB 4/21/10, effective 5/26/10; ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.16(194) Legal milk.

68.16(1) All milk delivered to a creamery, cheese factory or milk processing plant shall be subject to an examination, as provided in Iowa Code chapter 194, which shall be made at the plant if delivered in separate containers or before mixing with other milk collected in a bulk tank container and the examination shall be made by a licensed grader.

68.16(2) Every creamery, cheese factory or milk processing plant which gathers its milk by a bulk tank vehicle whether operated by an independent contractor or otherwise shall provide for a licensed grader in the operation of the bulk tank and for examination of the milk by the grader upon receipt thereof at the bulk tank.

68.16(3) The common change occurring in milk is the development of acidity, causing an acid flavor and odor, or even complete or partial coagulation. Other undesirable changes include sweet gassiness, ropiness, gassiness and abnormal flavors, odors and colors. All milk showing any of these defects or any other defect must be rejected.

68.16(4) The presence of any insect in milk shall be sufficient cause for rejection.

This rule is intended to implement Iowa Code sections 194.2, 194.12 and 194.15.

21—68.17(194) New producers.

68.17(1) A “new producer” is a person selling milk for the first time who has not previously produced milk under Iowa Code chapter 194. A person who formerly produced farm-separated cream and is now selling, for the first time, whole milk for manufacturing purposes is considered a new producer. Similarly, a producer who previously supplied Grade A milk or sold milk in another state not reciprocating on quality transfers and offering manufacturing milk for sale in the state of Iowa for the first time shall be classified as a new producer. A new producer is also one who has not offered manufacturing milk for sale since the enactment of this milk grading law on July 4, 1959.

68.17(2) A licensed milk grader must examine, smell and taste the first lot of milk purchased from a new producer. This milk must also be tested immediately for extraneous matter or sediment content. However, it is not necessary to subject the milk of the new producer on the first delivery to a bacterial quality test. A test of this nature, however, must be made on a properly collected sample from this producer within 15 days thereafter.

68.17(3) If the sediment disc on the can of milk selected for test shows sediment in excess of 2.50 mg., all cans in the shipment shall be tested for sediment content in the same manner. Any milk showing sediment in excess of 2.50 mg. shall be rejected by the creamery, cheese factory or milk processing plant and not used for human consumption.

This rule is intended to implement Iowa Code section 194.2.

21—68.18(194) Testing and exclusion of Class III milk.

68.18(1) If a producer desires to change to another plant or factory, it is required that the first shipment of milk be accompanied by a written quality release form from the former purchaser. This quality release form must be requested by the producer in person or in writing from the manager of
the plant previously purchasing the milk. (Plant being asked for quality release shall give it to person with written order or deliver to producer making the request.) The new buyer shall not accept the first delivery until receiving a copy of the record of the producer’s milk quality covering the preceding 90 days.

68.18(2) If the quality release form of this producer shows that the last test for bacterial quality indicated Class III milk, the new purchaser must then test first shipment of the transferring producer’s milk by:
   a. Organoleptic grading (physical appearance, taste and smell).
   b. Sediment or extraneous matter.
   c. An estimate of bacterial quality must be run within seven days from the last test date entered on the transfer form.

68.18(3) In other words, the previous record of bacterial quality is transferred. For example, if a producer has had two consecutive Class III bacterial estimates at one plant and then decides to sell the milk to another plant, the producer may not start as a new producer without previous history. This rule requires that the milk be tested for four consecutive weeks if there is no improvement in the quality of the milk during this period. Upon transferring to a new plant, the next bacterial test is entered on the record as the third of the four required tests.

68.18(4) If the fourth consecutive test is still Class III, this producer’s milk may not be purchased by any plant for human consumption. The plant refusing this milk is required to notify the area resident inspector of the dairy products control bureau of the Iowa department of agriculture and land stewardship, immediately, in writing.

This rule is intended to implement Iowa Code section 194.2.

21—68.19(194) Unlawful milk. Four weekly Class III bacterial tests or milk containing radioactive agents “deleterious to health” shall make rejection compulsory and that milk shall not be accepted thereafter by any plant or creamery until authorized by the secretary of agriculture.

This rule is intended to implement Iowa Code sections 194.4 and 194.9.

21—68.20(194) Price differential. All purchasers or receivers of milk shall maintain a price differential between the grades of milk as defined by bacterial estimate test.

21—68.21(194) Penalties for plants and producers.

68.21(1) The scope of this section is broad, covering all plant employees, operators and milk haulers.

68.21(2) A producer selling milk to a new purchaser without first obtaining a quality release form from the former buyer, would be an example of noncompliance with the law and these rules.

This rule is intended to implement Iowa Code section 194.20.

21—68.22(192,194) Farm requirements for milk for manufacturing.

68.22(1) Milking facility and housing. A milking barn or milking parlor of adequate size and arrangement shall be provided to permit normal sanitary milking operations. It shall be well lighted and ventilated, and the floors and gutters in the milking area shall be constructed of concrete or other impervious material. The facility shall be kept clean.

68.22(2) Milk house or milk room. A milk house or milk room conveniently located and properly constructed, lighted, and ventilated shall be provided for handling and cooling milk and for washing, handling, and storing the utensils and equipment. Other products shall not be stored in the milk room which would be likely to contaminate milk, or otherwise create a public health hazard.

It shall be equipped with wash and rinse vat, utensil rack, milk cooling facilities and have an adequate supply of hot water available for cleaning milking equipment.

68.22(3) Utensils and equipment. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and
drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least 200 ppm. chlorine solution or its equivalent.

68.22(4) Cooling. Milk in farm bulk tanks shall be cooled to 45°F or 7°C or lower within two hours after milking and maintained at 50°F or 10°C or lower until transferred to the transport tank. Milk in cans shall be cooled immediately after milking to 50°F or 10°C or lower unless delivered to the plant within two hours after milking. The temperature requirement for milk placed in cans will be 50°F or 10°C or lower. The cooler, tank, or refrigerated unit shall be kept clean.

This rule is intended to implement Iowa Code chapter 192 and section 192A.28.

21—68.23 to 68.25 Reserved.

21—68.26(190,192,194) Tests for abnormal milk.

68.26(1) At least once every calendar month, all creameries, cheese factories, or milk processing plants, hereafter referred to as purchasers, shall test a herd milk sample from every producer in a certified or officially designated laboratory to determine the existence of abnormal milk.

68.26(2) A herd milk sample shall be deemed to be abnormal or adulterated if a test by direct microscopic examination, electronic somatic cell count, or equivalent technique, reveals a count greater than 750,000 somatic cells/ml.

68.26(3) Whenever two of the last four consecutive somatic cell counts exceed 750,000 cells/ml, the purchaser or regulatory authority shall send a written notice thereof to the person concerned. An additional sample shall be taken within 21 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of permit shall be instituted whenever the standard is violated by three of the last five somatic cell counts.

68.26(4) Within one week following receipt of a written application from the producer, an inspection shall be made by the regulatory authority or the purchaser and a herd milk sample taken. If the test indicates a count of 750,000 or less somatic cells/ml, the producer’s milk may be purchased for human consumption provided additional samples of herd milk are tested at a rate of not more than two per week. The producer shall be reinstated under the normal testing program when three out of four consecutive tests have counts of 750,000 or less somatic cells/ml.

This rule is intended to implement Iowa Code chapter 192 and Iowa Code sections 190.4, 194.4, and 194.6.

21—68.27(192,194) Standards for performing farm inspections. The October 1, 2009, manual prepared by USDA/AMS, Dairy Division, titled “General Instructions for Performing Farm Inspections According to USDA Recommended Requirements for Manufacturing Purposes and Its Production and Processing for Adoption by State Regulatory Agencies,” is adopted in its entirety and shall constitute the official standards for farms producing milk for manufacturing, with the following exception:

Strike from Rule 1c, Brucellosis Test, the words “Uniform Methods and Rules for establishing and maintaining Certified Brucellosis Free Herds of Cattle, Modified Certified Brucellosis Area and Certified Brucellosis Free Areas which are approved by Animal Disease Eradication Division, Agricultural Research Service...”, and insert in lieu thereof, “Brucellosis Eradication, Uniform Methods and Rules, effective February 1, 1998”. The bacteriological standards for private water supplies used by dairy farms consist of an MPN (Most Probable Number of Coliform Organisms) of less than 2.2/100 ml by the multiple tube fermentation technique, or less than 1/100 ml by the membrane filter technique, or the results of any water test approved by the United States Food and Drug Administration or Environmental Protection Agency of less than 1/100 ml.

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

DAIRY FARM WATER

21—68.28 to 68.34 Reserved.
21—68.35(192) **Dairy farm water supply.**

68.35(1) Water for milk house and milking operations shall be from a supply properly located, protected, and operated and shall be easily accessible, adequate and of a safe, sanitary quality.

68.35(2) A Grade A permit shall not be issued to an applicant when the water well supplying the dairy facility is located in a well pit.

68.35(3) New well construction or the reconstruction of an existing well supplying the dairy facility shall be constructed according to 567—Chapter 49, Iowa Administrative Code.

68.35(4) Frost-free hydrants shall be located at least ten feet from the well that supplies the water for the dairy facility unless a written variance is granted by the department.

68.35(5) The department encourages the use of high-pressure washers for use in the dairy facility. However, they can create a negative pressure and contaminate the water supply system because of their capability to pump at a faster rate than water can be supplied if not properly installed and operated.

The dairy facility water supply system shall be protected from overpumping by a high-pressure washer by one of the following:
1. A separate water supply.
2. By supplying the high-pressure washer from a surge tank that is isolated from the main water supply system by an air gap.
3. A low-pressure cutoff switch.
4. A device built into the high-pressure washer by the manufacturer and approved by the department.
5. Any other device installed in the system to prevent a negative pressure to the supply system that is approved by the department.

This rule is intended to implement Iowa Code chapter 192.

21—68.36(192) **Antibiotic testing.**

68.36(1) The dairy industry shall screen all Grade A and Grade B farm bulk milk pickup tankers and farm can milk loads for beta lactam drug residues or other residues as designated by the department. A sampling method shall be used with can milk loads to ensure that the sample includes raw milk from every milk can on the vehicle.

68.36(2) When loads are found to contain drugs or other inhibitors at levels exceeding federal Food and Drug Administration established “safety levels,” the department’s dairy products control bureau shall be notified immediately of the results and of the ultimate disposition of the raw milk. Disposition shall be in a manner approved by the bureau. The producer samples from the violative load shall be tested for tracing the violation back to the violative producer. The primary responsibility for tracing the violation back to the violative producer shall be that of the initial purchaser of the raw milk.

68.36(3) In every antibiotic incident, pickups of milk from the violative individual producer(s) shall be immediately discontinued and the permit shall be suspended until such time that subsequent testing by a certified industry supervisor establishes that the milk does not exceed safe levels of inhibitory residues. In addition, in every antibiotic incident except when the load is negative and the milk can be used, the violative producer shall pay the purchaser for the contaminated load of milk and the producer will not be paid for the producer’s share of milk on the load.

68.36(4) The dairy products control bureau staff shall monitor the dairy industry inhibitor load testing activities by making unannounced, on-site inspections to review the load sampling records. The inspector may also collect load samples for testing in the department’s dairy laboratory.

68.36(5) For the first violative occurrence within a 12-month period, a department dairy products inspector shall conduct an investigation.

68.36(6) For the second violative occurrence within a 12-month period, a department dairy products inspector shall make an appointment with the producer and a dairy industry representative to meet at the dairy facility within 10 working days of the violative occurrence to inspect the drug storage and to determine the cause of the second violation. In addition, the producer shall review the “Milk and Dairy Beef Residue Prevention Protocol” with a veterinarian within 30 days of the violative occurrence. The protocol certificate shall be signed by the producer and the veterinarian. The producer shall send the
dairy products control bureau a copy of the signed certificate within 35 days of the violation. Failure to complete the course or to submit a copy of the certificate to the dairy products control bureau is grounds for suspension or revocation of a violative producer’s permit to sell raw milk.

68.36(7) For the third violative occurrence within a 12-month period, the producer shall attend a hearing concerning the third violation at a time, date, and place set by the department. At the hearing, the producer shall explain the history of the violations and steps taken to prevent a repetition of the violation. At the conclusion of the hearing, the department may order the producer to take additional steps to avoid future repetition of the violation. Failure of the producer to abide by the conditions set by the department is grounds for the department to initiate an action to suspend or revoke the producer’s permit to sell raw milk.

68.36(8) In every antibiotic incident of a noncommingled load of milk where there is only one producer on the load, the load shall be discarded and the producer shall pay for the disposition of the load and for the cost of hauling. In addition, the producer and employee(s) shall review the “Milk and Dairy Beef Residue Prevention Protocol” with a veterinarian within 30 days, and the protocol certificate shall be signed by the veterinarian, the producer and the employee(s). The certificate shall be received by the dairy products control bureau within 35 days of the violative occurrence or the permit will be suspended until the certificate is received. For the third violation within a 12-month period, the producer shall be required to attend a hearing in the same manner as specified in subrule 68.36(7).

68.36(9) When the antibiotic tests show that a load is nonviolative, but routine producer sampling finds that a producer on the load is violative, the permit shall be suspended until subsequent testing establishes that the milk does not exceed safe levels of inhibitory residues. The first or second monetary penalty within a 12-month period shall be waived. In case of a third violation within a 12-month period, procedures shall be initiated as provided in subrule 68.36(7).

68.36(10) Each violative occurrence within a 12-month period, including a violative producer found on a nonviolative load, shall count as a first, second, third or fourth violation against the producer.

68.36(11) Records shall be kept by the industry at each receiving or transfer station of all incoming farm pickup loads of raw milk. The records shall be retained for a period of at least 12 months.

a. The records shall include the following information:
   (1) Name of the organization;
   (2) Name of test(s) used;
   (3) Controls, positive and negative;
   (4) Date of test(s);
   (5) Time the test was performed;
   (6) Temperature of the milk in the tanker at the time of sampling;
   (7) Identification of the load;
   (8) Pounds of milk on the load;
   (9) Initials of the person filling out the record.

b. When the load is violative, the records shall also include the following:
   (1) Names of the producers on the load;
   (2) Identification of the violative producer(s);
   (3) The first name of the dairy products control bureau office person telephoned;
   (4) Location of disposition of the violative load;
   (5) The number of pounds of milk belonging to each producer.

68.36(12) When telephoning the dairy products control bureau office to report a violative load or violative producer, the following information shall be given:

a. Name of the person telephoning;

b. Name of the organization;

c. Date of violation;

d. Route number and name of the milk hauler;

e. Verification that all producers on the violative load were tested;

f. Name and producer number(s) of the violative producer(s) and milk grade;

g. The concentration of residue in the producer sample;
h. The concentration of residue in the load sample, if available;

i. Name of test(s) used;

j. Name of analyst;

k. Pounds of milk on the load and violative producer(s) pounds;

l. Location of disposition of the milk.

This rule is intended to implement Iowa Code chapter 192.

21—68.37(192,194) Milk truck approaches.

68.37(1) The milk truck approach of a dairy farm facility shall not be through a cowyard or any other animal confinement area.

68.37(2) If the milk truck approach is contaminated with manure, the milk truck shall not traverse through the contaminated area.

68.37(3) All milk truck approach driveways shall be graded, maintained in a smooth condition, and shall be topped with gravel or be paved.

This rule is intended to implement Iowa Code chapters 192 and 194.

[ARC 8699B, IAB 4/21/10, effective 5/26/10]

21—68.38 and 68.39 Reserved.

MILK TANKER, MILK HAULER, MILK GRADER, CAN MILK TRUCK BODY

21—68.40(192) Definitions.

“Bulk milk tanker” means a mobile bulk container used to transport milk or fluid milk products from farm to plant or from plant to plant. This includes both the over-the-road semitankers and the tankers that are permanently mounted on a motor vehicle.

“Bulk tank” means a bulk tank used to cool and store milk on a farm.

“Can milk truck body” means a truck body permanently mounted on a motor vehicle for the purpose of picking up milk in milk cans from dairy farms for delivery to a milk plant.

“Dairy farm” means any place where one or more cows, sheep or goats are kept for the production of milk.

“Milk” means the lacteal secretion of cows, sheep or goats, and includes dairy products.

“Milk can” means a sanitary-designed, seamless, stainless steel can, manufactured from approved material for the purpose of storing raw milk on can milk farms, to be picked up and loaded onto a can milk truck body.

“Milk grader” means a person who collects a milk sample from a bulk tank or a bulk milk tanker. This includes dairy industry field personnel and dairy industry milk intake personnel.

“Milk hauler” means any person who collects milk at a dairy farm for delivery to a milk plant.

“Milk plant” means any facility where milk is processed, received or transferred.

“Milk producer” means any person who owns or operates a dairy farm.

21—68.41(192) Bulk milk tanker license required.

68.41(1) A milk tanker shall not operate in Iowa without a valid license.

68.41(2) The license application shall include a description of the bulk milk tanker, including the make, serial number, capacity and the address at which the bulk milk tanker is customarily kept when not being used. The applicant shall also furnish any other information which the department reasonably requires for identification and licensing.

68.41(3) A license pursuant to this rule expires June 30 annually and is not transferable between tankers.

68.41(4) The department may initiate an enforcement action against a person operating a bulk milk tanker if the department determines that the person has operated without a license or has procured another person to operate without a license.

68.41(5) The cost of the bulk milk tanker license is $25 per year.
68.41(6) If the bulk milk tanker and accessories have been inspected within the last 12 months and carry a current license, the bulk milk tanker renewal license application and a return envelope will be mailed to the owner of the tanker in April annually by the dairy products control bureau office in Des Moines.

21—68.42(192) Bulk milk tanker construction. A bulk milk tanker, including equipment and accessories, shall be of a sanitary design and construction and shall comply with “3-A Sanitary Standards for Stainless Steel Automotive Milk and Milk Products Transportation Tanks for Bulk Delivery and/or Farm Pick-Up Service,” Number B-05-15-A (April 14, 2015), published jointly by the International Association of Milk, Food and Environmental Sanitarians, Inc. and the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services.

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.43(192) Bulk milk tanker cleaning and maintenance.

68.43(1) A bulk milk tanker, including equipment and accessories, shall be thoroughly cleaned immediately after each day’s use and shall be kept clean and in good repair.

68.43(2) All product contact surfaces on a bulk milk tanker, including all contact product surfaces of equipment and accessories used on the tanker, shall be thoroughly cleaned.

68.43(3) External surfaces of a bulk milk tanker shall also be thoroughly cleaned.

21—68.44(192) Bulk tanker sanitization. All product contact surfaces on a bulk milk tanker, including equipment and accessories, shall be thoroughly sanitized immediately after cleaning.

21—68.45(192) Bulk milk tanker cleaning facility.

68.45(1) A bulk milk tanker shall be cleaned and sanitized in a fully enclosed facility.

68.45(2) The facility shall have an impervious drained floor and shall be equipped with adequate hot and cold water under pressure, a wash vat, sanitizing facilities and equipment storage racks.

68.45(3) A bulk milk tanker may be cleaned and sanitized in the same room where milk is being received from bulk milk tankers.

21—68.46(192) Bulk milk tanker cleaning tag.

68.46(1) When a bulk milk tanker has been thoroughly cleaned and sanitized, but is not returning to the same plant, the dairy receiving operator shall attach a tag showing all of the following:

a. The date on which the tanker was cleaned and sanitized.

b. The name and location of the facility where the tanker was cleaned and sanitized.

c. The legible signature or initials of the person who cleaned and sanitized the tanker.

d. The type or name of the chemicals used to clean and sanitize.

68.46(2) The tag shall be attached to the outlet valve or inside the pump cabinet of the tanker.

68.46(3) The tag shall not be removed until the tanker is cleaned and sanitized again.

68.46(4) All unused tags shall be maintained in a secure location so they cannot be easily used for unauthorized purposes.

21—68.47(192) Dairy plant, receiving station or transfer station records.

68.47(1) Records shall be kept at all plants where tankers are cleaned and sanitized.

68.47(2) The records shall be kept for at least 90 days.

68.47(3) The records shall include all of the following:

a. The name and address of the facility where the tanker was cleaned and sanitized.

b. The date on which the tanker was cleaned and sanitized.

c. The legible name or initials of the person who cleaned and sanitized the tanker.

21—68.48(192) Milk hauler license required.

68.48(1) A person shall not engage in the activities of being a milk hauler without a valid milk hauler license.
68.48(2) The cost of a milk hauler license is $10.
68.48(3) A milk hauler license obtained pursuant to this rule expires June 30 annually and is not transferable between persons.
68.48(4) As a condition of relicensing, a milk hauler license renewal applicant shall have had an on-the-farm evaluation of milk pickup procedures by a department inspector within two years immediately prior to relicensure and shall have attended a milk hauler school within three years immediately prior if a hauler school was made available within that three-year period.
68.48(5) If a milk hauler with a current license has had an on-the-farm evaluation within the last two years and has attended a state milk hauler training school within the last three years, a milk hauler renewal application and a return envelope will be mailed to the milk hauler in April annually by the dairy products control bureau office in Des Moines.
68.48(6) The department may take action against a person if the department determines that the person has engaged in activities requiring a milk hauler license without a valid milk hauler license or has procured another person to operate without a license.

21—68.49(192) New milk hauler license applicant.
68.49(1) The department may issue a 45-day interim license to a new applicant for a milk hauler license if the department determines that the new applicant has been trained by an industry field person who holds a milk hauler license.
68.49(2) An application for an interim license may be made by calling the dairy products control bureau office in Des Moines at (515)281-3545 and requesting the interim license and the Milk Hauler’s Manual. The applicant shall give the name of the person who has provided the training and the telephone number where that person can be reached for verification. The license may be issued after verification of the training and verification of the trainer’s license.
68.49(3) The cost of the interim license is $10 and will be used for the payment of the regular milk hauler license upon approval by the department.
68.49(4) An application form for the regular milk hauler license will be sent with the interim license. During the 45-day interim period, in order to receive a regular milk hauler license, the applicant shall do both of the following:
   a. Pass a written examination based upon the Milk Hauler’s Manual, given by a department inspector.
   b. Pass a written, on-the-farm evaluation of milk pickup procedures by a department inspector on a “Bulk Milk Pickup Tanker, Hauler Report and Sampler Evaluation Form” that was filled out by the department inspector at the time of the evaluation. This form shall be sent to the Des Moines office with the completed application and the $10 license fee (if the fee has not been paid).
68.49(5) The department shall grant or deny a license application within the 45-day interim period.
68.49(6) The department shall not issue a milk hauler license if court action is in progress against the applicant for operating without an interim or regular license.

21—68.50(192) Supplies required for milk collection and sampling. A milk hauler who collects milk in bulk from a dairy farm shall have all of the following supplies available:
   1. An adequate supply of sample containers.
   2. A sample dipper.
   3. A sample dipper storage container.
   4. A sanitizing solution in the sample dipper storage container of 200 ppm of chlorine or equivalent.
   5. An insulated carrying case with a rack to hold samples.
   6. A certified thermometer, accurate to plus or minus 2°F, that can be used to check the temperature of the milk in the farm bulk tank, the accuracy of the farm bulk tank thermometers and the temperature of the commingled load.
   7. A marking device to identify samples collected.
   8. A watch or timing device.
10. A writing device to write on the forms and records.
11. Access to an adequate supply of single-service paper towels.

21—68.51(192) Milk hauler sanitization.
   1. A milk hauler shall wear clean clothing.
   2. A milk hauler shall maintain a high degree of personal cleanliness.
   3. A milk hauler shall observe good hygienic practices.
   4. A milk hauler shall not measure, sample or collect milk if the hauler has a discharging or infected wound or lesion on the hauler’s hands or exposed arms.

21—68.52(192) Examining milk by sight and smell.
   68.52(1) Before a milk hauler receives or collects milk from a dairy farm, the hauler shall examine the milk by sight and smell and shall reject all milk that has any of the following characteristics:
      1. Objectionable odor.
      2. Abnormal appearance and consistency.
      3. Visible adulteration.
   68.52(2) A milk hauler who rejects milk from a farm shall collect only a sample of the rejected milk.
   68.52(3) If a dairy farmer disputes a milk hauler’s rejection of the milk, the milk hauler shall contact the operator of the dairy plant to which the milk would ordinarily be delivered, and the plant operator or the plant field person shall examine the rejected milk to determine whether the milk was properly rejected.

21—68.53(192) Milk hauler hand washing. A milk hauler shall wash and dry hands before performing any of the following:
   1. Using a thermometer.
   2. Measuring the milk.
   3. Collecting a milk sample.

21—68.54(192) Milk temperature.
   68.54(1) Before a milk hauler collects milk at a dairy farm, the milk hauler shall record the temperature of the milk to be collected.
   68.54(2) If the milk is collected more than two hours after the last milking, the milk hauler shall reject the milk if the milk temperature exceeds 45°F or 7°C.
   68.54(3) If milk from two or more milkings is collected within two hours of the last milking, the milk hauler shall reject the milk if the milk temperature exceeds 50°F or 10°C.
   68.54(4) If the farm bulk tank thermometer is working, at least once each month, and more often if necessary, a milk hauler shall check the accuracy of each dairy farm bulk tank thermometer by taking the temperature of the milk in the bulk tank with the milk hauler’s thermometer and shall record the temperature on the milk pickup record card. This procedure shall be done at every pickup if the farm bulk tank thermometer is not working.
   68.54(5) Before a milk hauler uses the milk hauler’s thermometer to take the temperature of the milk in a bulk tank, the hauler shall sanitize the stem of the thermometer in 200 ppm chlorine or its equivalent for a minimum of 60 seconds.
   68.54(6) A milk hauler shall immediately notify the milk producer and the dairy field person if the dairy farm bulk tank is not cooling properly or if the bulk tank thermometer is not recording the temperatures accurately.

21—68.55(192) Connecting the milk hose.
   68.55(1) Before the milk hauler connects a tanker hose to a bulk tank, the hauler shall examine the fittings of the tanker hose and the bulk tank outlet and shall clean and sanitize as necessary.
   68.55(2) The milk hauler shall attach the milk hose to the bulk tank outlet in a manner that does not contaminate the hose or the hose cap.
68.55(3) The hose shall be connected through the milk room hose port.

21—68.56(192) Measuring the milk in the bulk tank.

68.56(1) Before milk is transferred from a bulk tank to a bulk milk tanker, the milk hauler shall measure the amount of milk in the bulk tank.

68.56(2) The milk hauler shall measure the milk using a clean gauge rod or other measuring device that is specifically designed and calibrated to measure milk in the bulk tank.

68.56(3) Immediately before using the gauge rod or measuring device, the milk hauler shall wipe it dry with a clean, single-service disposable towel.

68.56(4) A milk hauler shall not measure the amount of milk in a dairy farm bulk tank until the milk in the tank is motionless.

68.56(5) If the milk is being agitated, the milk hauler shall turn off the agitator and wait for the milk to become completely motionless before measuring the milk.

68.56(6) After measuring the milk with a gauge rod or other device, the milk hauler shall use that measurement to calculate the weight or volume of milk in the bulk tank with the manufacturer’s conversion chart.

68.56(7) The milk hauler shall record that weight or volume on a written collection record.

21—68.57(192) Milk sample for testing.

68.57(1) Before milk is transferred from a dairy farm bulk tank to a bulk milk tanker, a milk hauler shall collect a representative sample of that milk from the dairy farm bulk tank for testing. If there is more than one bulk tank, a sample from each tank shall be taken and identified.

68.57(2) The collected sample shall be filled only ¾ full in the sample container so that the sample can be agitated in the lab.

21—68.58(192) Milk collection record.

68.58(1) Whenever a milk hauler collects a milk shipment from a dairy farm, the milk hauler shall make a written record for that shipment.

68.58(2) One copy of the collection record shall be posted in a dairy farm milk room.

68.58(3) The collection record shall be initialed by the milk hauler.

68.58(4) The record shall include all of the following:
1. The milk producer identification number.
2. The milk hauler’s initials.
3. The date when the milk was sampled and collected.
4. The temperature of the milk when collected.
5. The weight or volume of milk collected as determined by the milk hauler.
6. The time of pickup, including whether A.M. or P.M. or military time.

21—68.59(192) Loading the milk from the bulk tank to the milk tanker.

68.59(1) After a milk hauler has sampled milk from the dairy farm bulk tank and prepared a complete collection record, the hauler may transfer the milk from that bulk tank to the milk tanker.

68.59(2) A milk hauler shall not collect milk from any other container on a dairy farm other than from a bulk tank.

68.59(3) Partial pickup of milk shall be avoided whenever possible.

68.59(4) After a milk hauler has collected all of the milk from a bulk tank, the milk hauler shall disconnect the milk hose from the bulk tank, cap the hose and return the hose to its cabinet in the bulk tank.

68.59(5) The milk hauler shall inspect the empty dairy farm bulk tank for abnormal sediments and shall report any abnormal sediments to the dairy producer and the dairy plant field person.

68.59(6) After the milk hauler has disconnected the milk hose and inspected the empty farm bulk tank for abnormal sediments, the milk hauler shall rinse the bulk tank with cold or lukewarm water.
21—68.60(192) Milk samples required for testing.
   68.60(1) The milk hauler shall collect a sample of milk from each dairy farm bulk tank before that milk is transferred to a bulk milk tanker.
   68.60(2) A milk sample collected from a dairy farm bulk tank shall not be commingled with a sample collected from any other bulk tank.

21—68.61(192) Bulk milk sampling procedures. A milk hauler shall comply with all of the following procedures when collecting a milk sample:
   1. Shall collect the sample after the bulk tank milk has been thoroughly agitated.
   2. Shall agitate a bulk tank of less than a 1000 gallon size, in the presence of the milk hauler, for at least five minutes before the milk sample is taken.
   3. Shall agitate a bulk tank of a 1000 gallon size or larger, in the presence of the milk hauler, for at least ten minutes before the milk sample is taken. If there are stamped printed instructions on the bulk tank, giving explicit agitation instructions that are different from ten minutes, the bulk tank shall then be agitated according to the written instructions.
   4. Shall collect the sample using a sanitized sample dipper that is manufactured for the purpose of taking a milk sample from a bulk tank. The milk hauler shall not use the sample container to collect a milk sample.
   5. Shall rinse the sanitized sample dipper in the milk, in the bulk tank, at least two times before the dipper is used to collect the sample.
   6. After rinsing the sample dipper in the milk, shall pour the sample from the dipper into a sample container until the sample container is ¾ full and shall securely close the sample container.
   7. Shall not fill the sample container over the bulk tank, but shall fill the sample container off to the side of the bulk tank, over the floor of the milk room.
   8. Shall handle the sample container and cap aseptically.
   9. After collecting the milk sample, shall immediately place the sample on a rack or floater, on ice in the insulated sample container, and rinse the sample dipper with clean potable water.

21—68.62(192) Temperature control sample.
   68.62(1) The milk hauler shall collect two milk samples at the first farm on each milk route.
   68.62(2) One of the two samples collected from the first farm shall be used for a temperature control (TC) sample.
   68.62(3) The temperature control (TC) sample shall remain in the rack with the other samples pertaining to that load.
   68.62(4) The temperature control (TC) sample container shall be marked in a legible manner identifying the sample as the TC sample and shall also be marked with the other following information:
      1. The producer identification number.
      2. The initials of the milk hauler.
      3. The date the sample was collected.
      4. The time the sample was collected.
      5. The temperature of the milk in the farm bulk tank from which the TC sample was collected.

21—68.63(192) Producer sample identification. Immediately before a milk hauler collects a milk sample, but before the milk hauler opens the sample container, the milk hauler shall, unless that sample container is prelabeled with the producer information, clearly and indelibly label the sample container with all of the following information:
   1. The producer identification number.
   2. The date when the sample was collected.
   3. The temperature of the milk in the bulk tank.
21—68.64(192) Care and delivery of producer milk samples.

68.64(1) Immediately after a milk hauler collects a milk sample, the milk hauler shall place the sample container in a clean, refrigerated carrying case in which the temperature is kept at from 32°F to 40°F.

68.64(2) If the sample containers are packed in ice or cold water to keep the samples refrigerated, the ice or water shall cover no more than 3/4 of each sample container.

68.64(3) The milk hauler shall promptly deliver the samples to the place designated by the milk purchaser.

21—68.65(192) Milk sample carrying case. The carrying case shall be constructed to have all of the following characteristics:

1. Shall be constructed of rigid metal or plastic.
2. Shall be effectively insulated and refrigerated to keep the samples at the required temperature.
3. Shall have a rack or floater designed to hold samples in the upright position.

21—68.66(192) Bulk milk delivery.

68.66(1) If milk is unloaded or transferred at any location other than a licensed facility, the person having custody of the milk shall notify the department of that unloading or transfer before that milk is processed or shipped to any other location.

68.66(2) Air entering a bulk milk tanker when the tanker is unloading shall be filtered to prevent contamination of the milk when the door to the receiving area is open.

21—68.67(192) False samples or records. The department may take enforcement action against a person doing or conspiring to do any of the following:

1. Falsely identify any milk sample.
2. Submit a false or manipulated milk sample.
3. Submit a milk sample collected in violation of this chapter.
4. Misrepresent the amount of milk collected from a dairy farm.
5. Misrepresent or falsify any record or report required under this chapter.

21—68.68(192) Violations prompting immediate suspension. A person violating any of the following shall have the person’s milk hauler license suspended for the first full five weekdays following the violation. Administering the violation in this manner will allow a licensed field representative or a person employed by the plant with a milk hauler’s license to ride with a suspended milk hauler and to perform all of the bulk milk pickup procedures which the suspended milk hauler shall not perform while the license is suspended. This rule will also allow a dairy co-op or a proprietary establishment the ability to recover the cost of the employee of the business establishment while the employee is working with the suspended milk hauler.

1. Not measuring the milk before pumping.
2. Not collecting a sample from the farm bulk tank.
3. Collecting milk from a container other than the farm bulk tank or an approved milk can.
4. Not collecting a milk sample before pumping or opening the valve to the milk tanker.
5. Mixing the contents of milk samples with other milk samples.
6. Collecting a sample before proper agitation.
7. Not using proper sample collection equipment.
8. Falsely identifying a milk sample.
9. Submitting a false or manipulated milk sample or a false sample collection record.

21—68.69(192) Milk grader license required.

68.69(1) A person shall not be employed as a dairy field person or a milk intake person and shall not collect a raw milk sample from a farm bulk tank or collect a load sample from a bulk milk tanker in Iowa without first being evaluated by a department dairy inspector and making application for a milk
grader license. A milk grader license will not be needed by a temporary milk plant intake person that is under the direct supervision of a licensed milk grader.

68.69(2) The department may take an enforcement action against a person engaged in activities of a dairy field person or milk intake person or a person collecting milk samples from a farm bulk tank or from a bulk milk tanker if the department determines that the applicant has engaged in such activities without first obtaining a valid Iowa milk grader license or a valid 45-day interim license or has procured another person to operate without a license.

68.69(3) The cost of a milk grader license is $10.

68.69(4) A milk grader license obtained pursuant to this rule expires June 30 annually and is not transferable between persons.

68.69(5) As a condition of relicensing:

a. A milk grader license renewal applicant for collecting a milk sample from a farm bulk tank shall have had an on-the-farm evaluation of milk collecting and care of milk sample procedures by a department inspector within two years immediately prior to relicensure and shall have attended a milk hauler school within three years immediately prior to relicensure, if a hauler school was made available within that three-year period.

b. A milk grader license renewal applicant for collecting a milk sample from a bulk milk tanker at a milk plant shall have had an in-the-plant evaluation of milk collecting procedures by a department inspector within the last two years prior to relicensure.

c. If the milk grader has had an evaluation within the last two years and, if required, has attended a milk hauler training school within the last three years, a milk grader renewal application and a return envelope will be mailed annually in April to the milk grader by the dairy products control bureau office in Des Moines.

21—68.70(192) New milk grader license applicant.

68.70(1) Rescinded IAB 8/19/15, effective 9/23/15.

68.70(2) An applicant for a milk grader license to collect a milk sample from a farm bulk tank shall follow the procedures outlined in subrules 68.49(2) to 68.49(4).

68.70(3) An applicant for a milk grader license to collect a milk sample from a bulk milk tanker at a milk plant shall contact the dairy products control bureau office in Des Moines, telephone (515)281-3545, and request a sampling procedure review by a department inspector and a milk grader application.

The inspector will fill out “Inspection Form Short Form 009-0293/TS” for verification of the sampling procedure review and give a signed copy to the applicant. The applicant shall mail the signed copy, the completed application and the $10 license fee to the dairy products control bureau office for a “Restricted Milk Grader License.”

[ARC 2104C, IAB 8/19/15, effective 9/23/15]

21—68.71(192,194) Can milk truck body.

68.71(1) A can milk truck body used for the purpose of picking up milk in milk cans from dairy farms for delivery to a milk plant shall not operate in the state of Iowa without first being issued a valid license from the department. This rule is intended to include can milk truck bodies that are commercially licensed in Iowa.

68.71(2) The can milk truck body vehicle license applicant shall include a description of the body, the make, model, year and color of the truck, a description of the can milk truck body, including the make, serial number, can capacity and the address at which the can milk truck body is customarily kept when not being used. The applicant shall also furnish any other information which the department reasonably requires for identification and licensing.

68.71(3) A license pursuant to this rule expires June 30 annually and is not transferable between truck bodies.

68.71(4) The department may take enforcement action against a person operating a can milk truck body if the department determines that the person has operated without a license or a person has procured another person to operate without a license.
The cost of the can milk truck body license is $25 per year.

The applicant shall have received an annual inspection by a department inspector and shall make the vehicle available for inspection prior to receiving the license.

These rules are intended to implement Iowa Code chapter 192.

[Filed November 28, 1962; amended March 11, 1964, April 22, 1968]
[Filed without Notice 1/7/77—published 1/26/77, effective 3/1/77]
[Filed without Notice 2/17/77—published 3/9/77, effective 4/13/77]
[Filed 7/29/77, Notice 2/23/77—published 8/4/77, effective 9/28/77]
[Filed 6/18/82, Notice 3/3/82—published 7/7/82, effective 8/11/82]
[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]
[Filed 3/21/86, Notice 2/12/86—published 4/9/86, effective 7/1/86]
[Filed 10/30/90, Notice 7/11/90—published 11/28/90, effective 1/2/91]
[Filed 2/7/92, Notice 11/27/91—published 3/4/92, effective 4/8/92]
[Filed emergency 11/23/93 after Notice 8/18/93—published 12/22/93, effective 12/15/93]
[Filed emergency 8/29/94 after Notice 7/20/94—published 9/14/94, effective 8/29/94]
[Filed 8/29/94, Notice 5/25/94—published 9/14/94, effective 10/19/94]
[Filed 6/2/95, Notice 2/15/95—published 6/21/95, effective 7/26/95]
[Filed 1/12/96, Notice 11/22/95—published 1/31/96, effective 3/6/96]
[Filed 5/2/96, Notice 3/27/96—published 5/22/96, effective 6/26/96]
[Filed 12/13/96, Notice 10/23/96—published 1/1/97, effective 2/5/97]
[Filed 1/5/01, Notice 9/20/00—published 1/24/01, effective 2/28/01]
[Filed 5/5/02, Notice 2/6/02—published 5/29/02, effective 7/3/02]
[Filed 8/11/04, Notice 7/7/04—published 9/1/04, effective 10/6/04]
[Filed ARC 8699B (Notice ARC 8432B, IAB 12/30/09), IAB 4/21/10, effective 5/26/10]
[Filed ARC 2104C (Notice ARC 2034C, IAB 6/10/15), IAB 8/19/15, effective 9/23/15]
[Filed ARC 2978C (Notice ARC 2894C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
ATTORNEY GENERAL[61]

DEPARTMENT OF JUSTICE

Editorially transferred from [120] to [61], IAC Supp. 1/28/87

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61—34.1(6B) Statement of property owner’s rights. Iowa Code section 6B.2A(1) mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner’s rights is adopted:

STATEMENT OF PROPERTY OWNER’S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.54(3))
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency’s determination of just compensation is based not less than ten days before being contacted by the acquiring agency’s acquisition agent. (Iowa Code section 6B.45)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54(2))
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code section 6B.2B)
6. Retain legal counsel of your choosing at your expense for the purpose of bringing a court action to challenge the exercise of eminent domain authority or the condemnation proceedings in accordance with the provisions of law. (Iowa Code section 6B.3A; Iowa Code section 6A.24)
7. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7; Iowa Code section 6B.18)
8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))
9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33; Iowa Code section 6B.54(10))
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency’s final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners’ award. (Iowa Code section 6B.33)
11. To the greatest extent practicable, be provided at least 90 days’ written notice to vacate occupied property prior to construction or development of a public improvement. (Iowa Code section 6B.54(4))
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner’s rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner’s rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

[ARC 2979C, IAB 3/15/17, effective 4/19/17]

61—34.2(6B) Alternate statement of rights. Rule 61—34.1(6B) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner’s rights.

[ARC 2979C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code section 6B.2A(1).

[Filed ARC 2979C (Notice ARC 2877C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]
ECONOMIC DEVELOPMENT AUTHORITY[261]

[Created by 1986 Iowa Acts, chapter 1245]
[Prior to 1/14/87, see Iowa Development Commission[520] and Planning and Programming[630]]
[Prior to 9/7/11, see Economic Development, Iowa Department of[261];
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ENHANCE IOWA BOARD

261—214.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

[ARC 2980C; IAB 3/15/17, effective 4/19/17]

261—214.2(15F) Enhance Iowa board.

214.2(1) Composition.

a. The board is composed of 11 voting members appointed by the governor. These 11 members include 2 members from each of the four United States congressional districts in the state and 3 members selected at large. In addition, the appointed members represent certain industry sectors and have certain business expertise as described in Iowa Code section 15F.102(3).

b. The board also includes 4 ex officio, nonvoting legislative members as described in Iowa Code section 15F.102(4).

214.2(2) Terms. Members of the board are appointed for staggered terms of two years beginning and ending as provided in Iowa Code section 69.19. A person appointed to fill a vacancy serves only for the unexpired portion of the term. A member is eligible for reappointment.

214.2(3) Quorum and voting requirements. A majority of the total voting membership of the board constitutes a quorum. The affirmative vote of a majority of the quorum is necessary for any action taken by the board members.

214.2(4) Board officers. The governor designates the chairperson and vice chairperson of the board from the members appointed pursuant to Iowa Code section 15F.102(2). In the case of absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting.

214.2(5) Duties. The board shall do all of the following:

a. Organize.

b. Oversee the administration of the following programs:

(1) Community attraction and tourism;
(2) Sports tourism;
(3) River enhancement community attraction and tourism; and
(4) Vision Iowa.

c. Review baseball and softball complex sales tax rebate applications and make awards.

214.2(6) Committees. Each voting member of the board shall serve on at least one of three review committees for the following programs: community attraction and tourism, river enhancement community attraction and tourism, and sports tourism.

[ARC 2980C; IAB 3/15/17, effective 4/19/17]

261—214.3(15F) Authority duties.

214.3(1) The authority, subject to approval by the board, shall adopt administrative rules pursuant to Iowa Code chapter 17A necessary to administer the programs established pursuant to Iowa Code chapter 15F.

214.3(2) The authority shall provide the board with assistance in implementing administrative functions, marketing the programs, providing technical assistance and application assistance to applicants under the programs, negotiating contracts, and providing project follow-up.

214.3(3) The authority may conduct negotiations on behalf of the board with applicants regarding terms and conditions applicable to awards under the programs.

These rules are intended to implement Iowa Code sections 15F.101 to 15F.107.

[ARC 2980C; IAB 3/15/17, effective 4/19/17]

[Filed ARC 2980C (Notice ARC 2864C, IAB 12/21/16), IAB 3/15/17, effective 4/19/17]
CHAPTER 215
SPORTS TOURISM PROGRAM

215.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Accredited colleges and universities” means any college, university, or institution of higher learning that is accredited by The Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

“Convention and visitors bureau” or “CVB” means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means a regional sports authority district certified under Iowa Code section 15E.321.

“Financial assistance” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“Infrastructure” means equipment, appurtenant structures, or site development that is related to the operation of a sporting event that is the subject of the project.

“Marketing” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools and tactics.

“Organization” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions.

“Promote” means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“Sports tourism program review committee” or “review committee” means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2)“a” and one member from the state at large under Iowa Code section 15F.102(2)“b.”

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

215.2(15F) Eligible applicants. Eligible applicants for sports tourism financial assistance include cities or counties in the state or public organizations, including convention and visitors bureaus.

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

215.3(15F) Eligible projects. Eligible projects must actively and directly promote sporting events for accredited colleges and universities and other sporting events in the area served by an eligible applicant as defined in rule 261—215.2(15F).

215.3(1) An eligible applicant may apply for and receive financial assistance for more than one project.

215.3(2) An eligible applicant may apply for financial assistance for a project that spans multiple fiscal years.
215.3(3) An eligible applicant may apply for renewal of financial assistance awarded in a prior year if all applicable contractual requirements are met. The decision as to whether to renew an award shall be at the discretion of the board. When considering whether to renew an award, the board shall evaluate metrics including the amount of revenue generated by ticket sales, the estimated economic impact, and the number of overnight stays at hotels in the city or county where the sporting event is being held. For example, economic impact may be calculated as total estimated attendance multiplied by daily attendee spending multiplied by average length of stay. If an eligible applicant wishes to supply an alternative formula for calculating economic impact, the applicant must supply a credible source for using an alternative formula. The authority may include such metrics and estimates in a program agreement executed pursuant to Iowa Code section 15F.401.

215.3(4) A convention and visitors bureau shall not in the same year receive financial assistance under the program created in this chapter and financial assistance as part of a district created pursuant to 261—Chapter 38.

215.3(5) An eligible applicant shall demonstrate matching funds in order to receive financial assistance pursuant to this rule. The amount of matching funds that may be required shall be at the board’s discretion.

215.3(6) A city, county, or public organization may use financial assistance received under the program for marketing, promotions, and infrastructure. Whether an activity or individual cost item is directly related to the promotion of the sporting event shall be within the discretion of the authority.

215.3(7) A city, county, or public organization shall not use financial assistance received under the program as reimbursement for completed projects.

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

261—215.4(15F) Threshold application requirements. To be considered for funding under the sports tourism program, an application must meet the following threshold application requirements:

215.4(1) There must be demonstrated local support for the proposed activity.

215.4(2) A detailed description of the project, outlining the sporting event and the plan for promoting it.

215.4(3) The proposed project budget must be spent on marketing, promotions, or infrastructure expenses directly related to the promotion of the sporting event.

215.4(4) Detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the sporting event described in the application. Such information shall include the estimated number of spectators and estimated quality and quantity of advertising and media coverage the sporting event will generate. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events and a summary of the advertising and media coverage generated.

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

261—215.5(15F) Application process.

215.5(1) Applications for assistance under the sports tourism program shall be submitted to the authority. For those applications that meet the threshold application requirements and the eligibility criteria, the authority shall forward the applications to the board and provide a staff review analysis and evaluation to the sports tourism program review committee and to the board.

215.5(2) All applications to the authority for financial assistance shall be made at least 90 days prior to a sporting event’s scheduled date.

215.5(3) When reviewing the applications, the review committee and the authority shall consider, at a minimum, all of the following:

a. Impact of the project on the local, regional, and state economies.

b. Potential to attract Iowans and out-of-state visitors.

c. Amount of positive advertising or media coverage the project generates.

d. Quality, size, and scope of the project.

e. Ratio of public-to-private investment.
215.5(4) Upon review of the recommendations of the review committee, the board shall make final funding decisions on each application. The board may approve, defer, deny, or modify applications for financial assistance under the program, in its discretion, in order to fund as many projects with the moneys available as possible. The board and the authority may negotiate with applicants regarding the details of projects and the amount and terms of any award. In making final funding decisions pursuant to this subrule, the board and the authority are exempt from Iowa Code chapter 17A.

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

261—215.6(15F) Administration.

215.6(1) Administration of awards.

a. Each applicant receiving an award of financial assistance from the board shall enter into an agreement with the authority. The agreement shall contain such terms and conditions as the board may place on the award or the authority may deem necessary for the efficient administration of the program established in this chapter. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project. The agreement will also include the terms and conditions under which financial assistance must be repaid or penalties incurred in the event the applicant does not fulfill all obligations under the agreement.

b. These rules and applicable state laws shall be part of the agreement.

c. The applicant must execute and return the contract to the board within 45 days of the transmittal of the final contract from the board. Failure to do so may be cause for the board to terminate the award.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon authority receipt and board approval of an implementation plan for the funded project.

215.6(2) Reports. An applicant receiving financial assistance shall provide an annual report to the authority for years in which it receives financial assistance under this rule. The report shall include the information the authority deems relevant. The report shall be submitted in the manner and on forms prescribed by the authority. The authority may perform any reviews or site visits necessary to ensure performance by the applicant.

215.6(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. Individual requests for funds shall be made in an amount equal to or greater than $500 per request, except for the final draw of funds.

215.6(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the sports tourism award for three years after contract closeout. Representatives of the authority shall have access to all recipient records that pertain to sports tourism funds.

215.6(5) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be approved by the enhance Iowa board.

215.6(6) Project closeout. Upon expiration of the agreement, the authority shall initiate project closeout procedures.

215.6(7) Compliance. If the board finds that an applicant is not in compliance with the requirements of this program or the terms and conditions of the agreement, the board may find the applicant noncompliant. Remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the applicant’s use of funds for activities not described in the contract, the applicant’s failure to complete funded projects in a timely manner, the applicant’s failure to comply with applicable state or local rules, or the lack of a continuing capacity of the applicant to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code sections 15F.401 and 15F.402.

[ARC 2980C, IAB 3/15/17, effective 4/19/17]

[Filed ARC 2980C (Notice ARC 2864C, IAB 12/21/16), IAB 3/15/17, effective 4/19/17]
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CHAPTER 1
ORGANIZATION
[Prior to 1/7/04, see 581—21.1]

495—1.1(97B) Organization. The agency shall administer the retirement system created by Iowa Code chapter 97B. Specific powers and duties of the agency, CEO, board, committee, and agency staff are set forth in Iowa Code chapter 97B and these administrative rules.

Operational units within the agency shall develop and administer policies and procedures governing retirement system programs, including accounting functions for the collection of funds from employers and employee members; disbursement of retirement benefits, death benefits, lump sum payments, and disability retirement benefits; training to employers and subsequent review of employer records for compliance with Iowa Code chapter 97B, rules and policies; preparation and release of informational newsletters and the annual report; and investment of funds contributed to the retirement system by employers and employee members. The retirement system is also the state administrator to the federal Social Security Administration.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—1.2(97B) Definitions. Unless otherwise prescribed by federal or state regulations, the terms used in this chapter shall have the following meanings:

“Agency” means the Iowa public employees’ retirement system (IPERS) created as an independent agency within the executive branch of state government to administer Iowa Code chapter 97B.

“Board” means the IPERS’ investment board as created in Iowa Code section 97B.8A.

“Chief benefits officer” means the person employed by IPERS’ chief executive officer, following consultation with the committee, to administer benefits programs and other member services provided under the retirement system.

“Chief executive officer” means the administrator of the agency appointed pursuant to Iowa Code section 97B.3 and whose term shall be determined pursuant to Iowa Code section 97B.3.

“Chief investment officer” means the person employed by IPERS’ chief executive officer, following consultation with the board, to administer the investment program of the retirement system.

“Committee” means the benefits advisory committee created pursuant to Iowa Code section 97B.8B.

“Internal Revenue Code” means the Internal Revenue Code as defined in Iowa Code section 422.3.

“IPERS” means the agency or the system as the context requires.

“System” means the Iowa public employees’ retirement system created pursuant to Iowa Code chapter 97B.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—1.3(97B) Administration. The chief executive officer, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C. The chief executive officer shall execute contracts on behalf of IPERS and shall, after consultation with the board and other agency staff, establish and administer the budget, funding policy and such other duties as are required or permitted in Iowa Code section 97B.4. The chief executive officer may make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B and may obtain, as necessary, the specialized services of individuals or organizations on a contract-for-service basis. The chief executive officer shall be the agency’s statutory designee with respect to rule-making power.

1.3(1) Location. IPERS’ headquarters is located at 7401 Register Drive, Des Moines, Iowa. General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Chief Executive Officer, Iowa Public Employees’ Retirement System, P.O. Box 9117, Des Moines, Iowa 50306-9117.

1.3(2) Business hours. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding officially designated holidays.

These rules are intended to implement Iowa Code chapter 97B.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 2
INVESTMENT BOARD
[Prior to 1/7/04, see 581—21.1]

495—2.1(97B) Investment board. The principal place of business of the board is IPERS’ headquarters, 7401 Register Drive, Des Moines, Iowa.

1. Effective July 1, 2002, the board shall be the trustee of the retirement fund. The board shall meet annually, and may meet more often, to review its investment policies.

2. At the first meeting in each fiscal year, the voting members shall elect a chair and vice chair. Future meeting dates for the year shall also be decided at the first meeting. Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21. All meetings of the board are open to the public and shall be held in accordance with Robert’s Rules of Order, Newly Revised.

3. Parties wishing to present items for the agenda of the next meeting shall file a written request with the board chair at least five business days prior to the meeting. The board may take up matters not included on its agenda.

4. Four members eligible to vote shall constitute a quorum. A simple majority vote of the full voting membership shall be the vote of the board.

5. Members of the board shall file financial statements pursuant to Iowa Code section 68B.35(2) “e.”

6. In the event that it should become necessary to fill the chief investment officer position, the board may consult with, and make hiring recommendations to, the chief executive officer that are consistent with the requirements of Iowa Code chapter 8A, subchapter IV.

7. The board shall set the salary of the CEO pursuant to Iowa Code section 97B.3.

8. The board shall participate in the annual performance evaluation of the chief investment officer.

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—2.2(97B) Group trusts. Assets of the fund may be invested in a tax-exempt group trust that has been determined by the Internal Revenue Service to be a pooled fund arrangement pursuant to Revenue Ruling 81-100, as modified by Revenue Rulings 2004-67 and 2011-1, and that is operated or maintained exclusively for the commingling and collective investment of moneys. In such case, the terms of the group trust shall be adopted as part of this plan.

[ARC 1348C, IAB 2/19/14, effective 3/26/14]

These rules are intended to implement Iowa Code chapter 97B.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]
[Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed emergency 6/25/08—published 7/16/08, effective 6/25/08]
[Filed 8/20/08, Notice 7/16/08—published 9/10/08, effective 10/15/08]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 3
BENEFITS ADVISORY COMMITTEE
[Prior to 1/7/04, see 581—21.33]

495—3.1(97B) Benefits advisory committee.

3.1(1) Scope. These rules shall govern the conduct of business by the IPERS benefits advisory committee (BAC) pursuant to Iowa Code section 97B.8B.

3.1(2) Purpose. The BAC shall be an advisory committee that serves as a channel for employers and employees to help formulate policies and recommendations regarding the provision of benefits and services to members of the system.

3.1(3) Governmental body. The BAC is a governmental body as defined by Iowa Code section 21.2(1).

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.2(97B) Membership organizations and representatives.

3.2(1) The BAC membership shall number no less than 9 and no more than 14, and the composition of the BAC must at all times meet the specific membership and voting requirements of Iowa Code section 97B.8B. A current list of organizations, appointees, terms and voting status is maintained on IPERS’ Internet site.

3.2(2) Appointment of BAC representatives. Each membership organization shall appoint a representative to serve on the BAC. All BAC representatives shall provide in writing to IPERS or the chairperson the name, address, and telephone number of and other information about the representative as required by IPERS or the chairperson. The BAC shall not entertain petitions disputing a membership organization’s choice of its representative. In addition, a citizen representative who is not a member of IPERS will also serve, pursuant to subrule 3.3(3).

3.2(3) Attendance. Any representative shall be deemed to have submitted a resignation from participation in the BAC if either of the following events occurs:
   a. The representative does not attend three or more consecutive regularly scheduled meetings.
   b. The representative attends fewer than one-half of the regularly scheduled meetings of the BAC each fiscal year.

   This provision applies only to a period beginning on or after the date when the person assumes the position of representative. In the event that a representative is deemed to have resigned under this provision, the chairperson shall immediately notify the representative’s organization and require the appointment of a different representative within 30 days.

   If a representative is unable to attend a meeting, an alternate designated by the membership organization may attend the meeting. Attendance by an alternate shall not relieve the regular representative of the responsibility of attendance at regularly scheduled meetings.

3.2(4) Replacement of membership organizations due to nonparticipation. If a membership organization, after receiving written notice from the BAC under subrule 3.2(3), fails to appoint a new representative to serve on the BAC, the chairperson shall send a second written notice to that membership organization again requiring that the organization appoint its representative within the next 30 days. The notice shall further state that, in order for the appointment to become effective, the newly appointed representative must also attend the next regularly scheduled BAC meeting. The attendance of an alternative representative at said meeting shall not fulfill the requirements of this subrule.

   If the organization does not timely appoint a new representative, or its newly appointed representative does not attend the next regularly scheduled BAC meeting, the organization shall be deemed to have relinquished its seat on the BAC.

   When a membership organization has relinquished its seat on the BAC for nonparticipation, the subcommittee on membership shall, as soon as practicable, meet to consider a replacement organization. If a seat relinquished for nonparticipation was not filled and the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1), the subcommittee on membership may recommend any type of qualified interested organization as a replacement, or it may recommend leaving the seat open. However, if the subcommittee determines that the composition
of the BAC would not satisfy subrule 3.2(1) if a seat relinquished for nonparticipation was not filled, the subcommittee must recommend a replacement, and the replacement must be one that permits the BAC to meet the requirements of subrule 3.2(1).

Any qualified, interested organization may file a petition for consideration as a replacement membership organization. The subcommittee shall review all such petitions, if any, which have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified interested organization.

The subcommittee shall make its recommendation for a replacement membership organization, if any, at the next regularly scheduled BAC meeting or as soon as practicable. The BAC, by a majority vote of the nine voting representatives, shall approve or reject the subcommittee’s recommendation.

If the subcommittee’s recommendation is rejected and the seat must be filled, the subcommittee shall reconvene as soon as practicable and the foregoing process shall be repeated until such time as the subcommittee’s recommendation is approved.

In order to be considered for BAC membership under this rule, an organization must be a “qualified, interested organization.” “Qualified, interested organization” means a unit of the executive branch or a formally organized corporation or association representing a viable and identifiable group of covered employers or covered employees as determined by the BAC in its sole discretion.

This subrule shall not be construed to affect the BAC positions reserved for the director of the department of administrative services or the position reserved for a citizen who is not a member of IPERS.

3.2(5) Replacement of current membership organizations other than through nonparticipation. A qualified, interested organization that wishes to replace an existing membership organization may petition the BAC to do so. Such petitions for BAC membership must be submitted in writing to the BAC as set forth in this rule and will be considered according to the schedule established below.

An organization petitioning for membership on the BAC must include the official name of the organization, a description of its organizational structure, the number of employers or employees represented, a description of prior activities by that organization regarding IPERS issues, and a brief explanation of the reasons why the organization should be selected as a replacement organization. The petition should also include the name and contact information for the organization’s proposed representative and the name and contact information of the person completing the petition.

A formal review of petitions under this rule shall be conducted every three years. IPERS shall provide 60 days’ prior written notice of the next formal review session to members who have indicated in writing that they wish to file such a petition. IPERS will provide 60 days’ prior written notice of the next formal review to all other potential petitioners through its Internet site.

The subcommittee chosen to make recommendations regarding the replacement of a current membership organization shall not include the individual representing that organization on the BAC. However, any membership organization whose seat is being contested under this rule shall have the opportunity to submit written materials and make oral presentations to the subcommittee in support of its continued existence as a BAC membership organization.

For each formal review, the subcommittee on membership shall review all petitions for membership, if any, that have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified, interested organization.

When one or more qualified, interested organizations have filed a petition to replace a current membership organization, the subcommittee on membership shall meet at least 30 days prior to the next formal review session to determine whether to recommend approval or rejection.

If the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1) regardless of the type of qualified, interested organization recommended, the subcommittee on membership may recommend any type of qualified, interested organization for a seat being sought under this rule.

However, if the subcommittee on membership determines that the composition of the BAC will only continue to satisfy subrule 3.2(1) if a current membership organization’s seat is filled by a certain specific type of organization, the subcommittee on membership must limit its recommendations for approval to
the types of organizations that would permit the composition of the BAC to continue to satisfy subrule 3.2(1).

The subcommittee shall present its recommendation regarding the replacement of a current membership organization at the next regularly scheduled formal review of petitions under this rule. The BAC, by a majority vote of the nine voting representatives, shall approve or reject the subcommittee’s recommendation.

If the subcommittee determines that two qualified, interested organizations are competing for the same seat, the subcommittee shall, in its sole discretion, evaluate the competing organizations and make a recommendation that meets the requirements of this rule and takes into consideration the following factors: the number of employers or employees represented, the diversity of the representation, the degree to which the applicable constituents already have BAC representation through other BAC membership organizations, prior involvement in BAC activities, and prior activities as an IPERS advocate in other forums.

If the BAC votes to replace a current membership organization that holds a voting seat with a new membership organization, the replacement membership organization shall complete the remainder of the term for that voting seat. Otherwise, the new membership organization shall be seated as a nonvoting organization. Thereafter, if a vacancy occurs in a voting seat and the new membership organization is qualified to fill that voting seat, the new membership organization may compete for the vacant voting seat.

An organization that petitions for a seat under this rule and after a formal review is not selected must resubmit its petition for membership in order to receive consideration for a seat during the next scheduled formal review.

This subrule shall not be construed to affect the BAC position reserved for the director of the department of administrative services or the position reserved for a citizen who is not a member of IPERS.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.3(97B) Voting representatives. The BAC shall have nine voting representatives. Four shall represent employers, four shall represent members of the system, and one shall be a citizen who is not a member of IPERS.

3.3(1) Employer voting representatives. One voting representative shall be the director of the department of administrative services. The remaining employer voting representatives shall be elected by the full membership of the BAC as follows: one shall be a representative of an employer group representing cities, one shall be a representative of an employer group representing counties, and one shall be a representative of an employer group representing local school districts.

3.3(2) Employee voting representatives. One voting representative shall be elected by the full membership of the BAC from a membership organization that represents teachers. The other three voting representatives who represent members of the system shall be elected by the full membership of the BAC, with no more than one being the representative of an employee group that solely represents the public safety protection classes.

3.3(3) The citizen representative shall be elected by the eight voting representatives who serve under subrules 3.3(1) and 3.3(2).

3.3(4) Voting rights. A membership organization shall be permitted to designate a substitute voting representative to cast the vote of the membership organization at a meeting in the event that the named representative cannot attend the meeting. No membership organization shall have more than one vote on a matter brought before the BAC.

3.3(5) Terms of voting representatives. The term of each voting representative shall be three years, beginning and ending as provided in Iowa Code section 97B.8B, except as otherwise indicated in this subrule.

The terms of the voting representatives shall be staggered, so as to maintain an acceptable level of continuity and experience on the BAC.
If a voting representative resigns or is replaced by the appointing organization, the appointing organization shall appoint a successor who shall be a voting member for the remainder of the term in question.

If an organization that is not currently a membership organization successfully petitions to replace a membership organization that is represented by a voting representative, the representative of the replacement membership organization shall complete the remainder of the term of the voting representative in question.

3.3(6) Quorum, voting requirements and voting procedures.
   a. Quorum. Five voting representatives of the BAC constitute a quorum.
   b. Voting requirements. A quorum of the BAC must be present, whether the representatives are attending in person or remotely, at the time any vote is taken.
   c. Voting procedures. The chairperson shall rule as to whether the vote will be by voice or roll call. A roll-call vote shall be taken anytime a voice vote is not unanimous. Minutes of the BAC shall indicate the vote of each voting member if a roll-call vote is taken.

3.3(7) Officers and elections.
   a. Officers. The officers of the BAC are the chairperson and vice chairperson and shall be elected by a vote of the full membership of the BAC.
   b. Elections. Election of officers shall take place at the first BAC meeting held at the beginning of each fiscal year. If an officer does not serve out the elected term, a special election shall be held at the first meeting after notice is provided to the BAC to elect a representative to serve out the remainder of the term.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.4(97B) Duties. The BAC shall review and advise on the following matters insofar as they impact benefits and services provided to members and employers under Iowa Code chapter 97B: overall plan design, benefits policy and goals, budget, benchmarking and quality assessment efforts, research and strategic planning. The BAC shall also participate in annual performance evaluations of the chief benefits officer and, when that position becomes vacant, assist the chief executive officer in the process of selecting a replacement. In addition, the BAC shall recommend to the governor at least two nominees for each vacant position on the investment board reserved for active or retired members of the system. The chairperson of the BAC shall solicit nominations for such vacancies from the entire BAC membership and, through a meeting of the BAC, select the names to be forwarded to the governor.

At least every two years, the BAC shall review the benefits and services provided to members; and the voting representatives shall make recommendations to the system, the governor, and the general assembly concerning the benefits and services provided to members and the system’s benefits policies and benefits goals. All of the membership of the BAC, including nonvoting representatives, may have input into formulating such recommendations.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.5(97B) Meetings. The BAC shall meet at least quarterly, or at the call of the chairperson, or upon the written request by the chief executive officer. The chairperson shall establish the dates of all regularly scheduled meetings. Unless otherwise specified in the agenda, meetings will be held at IPERS’ headquarters, 7401 Register Drive, Des Moines, Iowa.

3.5(1) Meeting agenda and minutes.
   a. Meeting agenda. The agenda for each meeting will be posted at IPERS’ headquarters at least 24 hours prior to the meeting unless, for good cause, notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.
   b. Minutes. Minutes shall be reviewed and approved by the BAC and maintained by IPERS.

3.5(2) Attendance and participation by the public.
   a. Attendance. All meetings of the BAC are open to the public and shall be held in accordance with Robert’s Rules of Order, Newly Revised. The BAC may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5 (closed session).
   b. Participation.
(1) Items on agenda. Persons who wish to address the BAC on a matter on the agenda should notify IPERS or the chairperson in writing at least 24 hours prior to the meeting.

(2) Items not on agenda. Persons who wish to address the BAC on a matter not on the agenda should notify IPERS or the chairperson in writing at least five days prior to the meeting.

c. Coverage by press. Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting.

   [ARC 2981C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code chapter 97B.

   [Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]
   [Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
   [Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
   [Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 4
EMPLOYERS
[Prior to 6/9/04, see 581—Ch 21]

495—4.1(97B) Covered employers.

4.1(1) Definition. All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following definitions also apply:

a. “Political subdivision” means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: cities, municipalities, counties, townships, schools and school districts, drainage and levee districts, and utilities.

b. “Instrumentality of the state or a political subdivision” means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

c. “Public agency” means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

d. Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Covered employers include, but are not limited to: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions.

An entity not already reporting to IPERS which meets the conditions for becoming an IPERS-covered employer shall immediately contact IPERS to provide notice which includes the name and address of the entity and other information required by IPERS. If, after review of this information, IPERS determines that the entity should be enrolled as a covered employer, IPERS will notify the entity and provide an IPERS account number for the entity to use when submitting information. IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the effective date for which IPERS actually approves the entity for coverage, unless the employer agrees to pay the full actuarial cost of providing such benefits.

An employer may request a revised beginning date for its status as a covered employer. The employer must submit acceptable proof to IPERS that its status as a covered employer began earlier than the date previously provided. In such cases, the employer shall provide IPERS coverage retroactively to all employees providing services to that employer on or after the revised beginning date and shall pay all actuarial costs.

4.1(2) Name change. Any employer which has a change of name, address, title of the employer, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall provide IPERS with the following information:

a. Former name;
b. Former address;
c. IPERS account number;
d. New name, address, and telephone number of the employer;
e. Reason for the change if other than a change of reporting official; and
f. Effective date of the change.

4.1(3) Termination. Any employer which terminates or is dissolved for any reason shall provide IPERS with the following:
4.2(97B) Records to be kept by the employer.

4.2(1) General. Each employer shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

4.2(2) Required information. Records shall show with respect to each employee:

a. Employee’s name, address, gender, and social security account number, and other demographic information that may be required;
b. Each date the employee was paid wages or other wage equivalent (e.g., room, board);
c. Total amount of wages paid on each date including noncash wage equivalents;
d. Total amount of wages including wage equivalents on which IPERS contributions are payable;
e. Amount withheld from wages or wage equivalents for the employee’s share of IPERS contributions; and
f. Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

4.2(3) Reports.

a. Each employer shall make reports as IPERS may require and shall comply with the instructions provided by IPERS for the reports.
b. Effective July 1, 1991, employers must report all terminating employees to IPERS within seven working days following the employee’s termination date. This report shall contain the employee’s last-known mailing address and such other information as IPERS might require.
c. The Iowa department of administrative services and the Iowa department of corrections shall notify IPERS prior to adding additional job classifications to the protection occupation class. The notification shall include the effective date, names and social security numbers of the employees involved.

4.2(4) Fees. IPERS may assess to the employer a fee for administrative costs as described in subrule 4.3(6).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—4.3(97B) Wage reporting and payment of contributions by employers.

4.3(1) Payment of contributions. For wages paid on or after July 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS-covered employer,
the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees’ Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective August 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

4.3(2) Wage reports. For wages paid on or after July 1, 2008, all IPERS-covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via IPERS’ employer self-service Internet application or as a paper report. However, for those employers submitting reports other than via IPERS’ employer self-service Internet application, IPERS shall charge a fee as described in subrule 4.3(6).

4.3(3) Deadlines for payment of contributions.

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the contribution is due on the next regularly scheduled business day.

b. For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

4.3(4) Request for time extension. A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if a request is made before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or state-observed holiday, the contribution or wage report is due on the next regularly scheduled business day.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention. The employer must affirmatively show that it did not file the wage report or timely pay a contribution because of some occurrence beyond the control of the employer.

4.3(5) No reportable wages. When an employer has no reportable wages during the applicable reporting period, the wage reporting document shall be filed according to subrule 4.3(2). Even if there are no reportable wages, the employer’s account is considered delinquent for the reporting period and is subject to a fee until the report is filed. However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.

4.3(6) Fees for noncompliance. IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS’ employer self-service Internet application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of $20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS’ employer self-service Internet application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code
section 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or state-observed holiday, the due date shall be the next regularly scheduled business day.

4.3(7) **Erroneously reported wages for employees not covered under IPERS.** Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employees’ share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer’s monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee’s request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

4.3(8) **Contributions paid on wages in excess of the annual covered wage maximum.** For wages paid on or after July 1, 2008, whenever IPERS determines that an employee’s wages will exceed the annual maximum established under Section 401(a)(17)(A) and the cost-of-living adjustments to that maximum permitted under Section 401(a)(17)(B) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee’s share of excess contributions and making the applicable tax corrections.

4.3(9) **Termination within less than six months of the date of employment.** If an employee hired for permanent employment terminates within six months of the date of employment, the employer may file an IPERS form for reporting adjustments to receive a warrant or a credit, as elected by the employer, for both the employer’s and employee’s portions of the contributions. It is the responsibility of the employer to return the employee’s share. “Termination within less than six months of the date of employment” means employment is terminated prior to the day before the employee’s six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

4.3(10) **Reinstatement following an employment dispute.** Employees who are reinstated following an employment dispute may restore membership service credit as described in 495—9.5(97B).

[ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—4.4(97B) **Accrual of interest and application of employer payments.** Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective August 1, 2008, employers that remit late contributions shall be charged a minimum of $20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

495—4.5(97B) **Credit memos voided.** Rescinded IAB 3/26/08, effective 4/30/08.

495—4.6(97B) **Contribution rates.** The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.
a. The following contribution rates were established by the Iowa legislature for all regular class members for the indicated periods:

<table>
<thead>
<tr>
<th></th>
<th>Effective July 1, 2007</th>
<th>Effective July 1, 2008</th>
<th>Effective July 1, 2009</th>
<th>Effective July 1, 2010</th>
<th>Effective July 1, 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined rate</td>
<td>9.95%</td>
<td>10.45%</td>
<td>10.95%</td>
<td>11.45%</td>
<td>13.45%</td>
</tr>
<tr>
<td>Employer</td>
<td>6.05%</td>
<td>6.35%</td>
<td>6.65%</td>
<td>6.95%</td>
<td>8.07%</td>
</tr>
<tr>
<td>Employee</td>
<td>3.90%</td>
<td>4.10%</td>
<td>4.30%</td>
<td>4.50%</td>
<td>5.38%</td>
</tr>
</tbody>
</table>

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

<table>
<thead>
<tr>
<th></th>
<th>Effective July 1, 2013</th>
<th>Effective July 1, 2014</th>
<th>Effective July 1, 2015</th>
<th>Effective July 1, 2016</th>
<th>Effective July 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined rate</td>
<td>14.88%</td>
<td>14.88%</td>
<td>14.88%</td>
<td>14.88%</td>
<td>14.88%</td>
</tr>
<tr>
<td>Employer</td>
<td>8.93%</td>
<td>8.93%</td>
<td>8.93%</td>
<td>8.93%</td>
<td>8.93%</td>
</tr>
<tr>
<td>Employee</td>
<td>5.95%</td>
<td>5.95%</td>
<td>5.95%</td>
<td>5.95%</td>
<td>5.95%</td>
</tr>
</tbody>
</table>

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

<table>
<thead>
<tr>
<th></th>
<th>Effective July 1, 2013</th>
<th>Effective July 1, 2014</th>
<th>Effective July 1, 2015</th>
<th>Effective July 1, 2016</th>
<th>Effective July 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined rate</td>
<td>19.76%</td>
<td>19.76%</td>
<td>19.76%</td>
<td>19.26%</td>
<td>18.76%</td>
</tr>
<tr>
<td>Employer</td>
<td>9.88%</td>
<td>9.88%</td>
<td>9.88%</td>
<td>9.63%</td>
<td>9.38%</td>
</tr>
<tr>
<td>Employee</td>
<td>9.88%</td>
<td>9.88%</td>
<td>9.88%</td>
<td>9.63%</td>
<td>9.38%</td>
</tr>
</tbody>
</table>

4.6(3) Contribution rates for protection occupations are as follows.

<table>
<thead>
<tr>
<th></th>
<th>Effective July 1, 2013</th>
<th>Effective July 1, 2014</th>
<th>Effective July 1, 2015</th>
<th>Effective July 1, 2016</th>
<th>Effective July 1, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined rate</td>
<td>16.90%</td>
<td>16.90%</td>
<td>16.40%</td>
<td>16.40%</td>
<td>16.40%</td>
</tr>
<tr>
<td>Employer</td>
<td>10.14%</td>
<td>10.14%</td>
<td>9.84%</td>
<td>9.84%</td>
<td>9.84%</td>
</tr>
<tr>
<td>Employee</td>
<td>6.76%</td>
<td>6.76%</td>
<td>6.56%</td>
<td>6.56%</td>
<td>6.56%</td>
</tr>
</tbody>
</table>

4.6(4) Members employed in a “protection occupation” shall include:


b. Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400 or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See employee classifications in rule 495—5.1(97B).) Effective January 1, 1995, part-time police officers shall be included.

c. Correctional officers as provided for in Iowa Code section 97B.49B. Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

d. Airport firefighters employed by the military division of the department of public defense (airport firefighters). Effective July 1, 2004, airport firefighters become part of and shall make the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1994, through June 30, 2004, airport firefighters were grouped with and made the same contributions
as sheriffs and deputy sheriffs. From July 1, 1988, through June 30, 1994, airport firefighters were grouped with and made the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1986, through June 30, 1988, airport firefighters were a separate protection occupation group and made contributions at a rate calculated for members of that group. Prior to July 1, 1986, airport firefighters were grouped with regular members and made the same contributions as regular members.

Notwithstanding the foregoing, all airport firefighter service prior to July 1, 2004, shall be coded by IPERS as sheriff/deputy sheriff/airport firefighter service, and all airport firefighter service after June 30, 2004, shall be coded by IPERS as protection occupation service. This coding, however, shall not supersede provisions of this title that require members to make contributions at higher rates in order to receive certain benefits, such as in the hybrid formula pursuant to 495—12.4(97B).

e. Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

f. Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

g. Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

h. Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district department of correctional services.

i. Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district department of correctional services.

j. Effective July 1, 2008, county jailers and detention officers working as jailers.

k. Effective July 1, 2008, National Guard installation security officers.

l. Effective July 1, 2008, emergency medical care providers.

m. Effective July 1, 2008, special investigators who are employed by county attorneys.

n. Effective July 1, 2014, an employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in Iowa Code section 507E.8.

o. Effective July 1, 2014, an employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in Iowa Code section 906.2.

p. Effective July 1, 2016, a peace officer employed by an institution under the control of the state board of regents whose position requires law enforcement certification pursuant to Iowa Code section 262.13.

q. Effective July 1, 2016, a person employed by the department of human services as a psychiatric security specialist at a civil commitment unit for sexually violent offenders facility.

4.6(5) Service reclassification.

a. Prior to July 1, 2006, except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required by regular service reclassified as special service under this paragraph.

b. Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65.
4.6(6) Effective July 1, 2006, in the determination of a sheriffs’ or deputy sheriffs’ eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C.

4.6(7) Pretax.

a. Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member’s salary reportable for federal income tax purposes by the amount of the member’s contribution.

b. Salaries reportable for purposes other than federal income tax will not be reduced, including for IPERS, FICA, and, through December 31, 1998, state income tax purposes.

c. Effective January 1, 1999, employers must pay member contributions on a pretax basis for both federal and state income tax purposes.


495—4.7(97B) Employee information to be provided by covered employers. Covered employers are required to enroll new employees prior to reporting wages for the new employees using IPERS’ employer self-service Internet application. Enrollment information shall include, but is not limited to, the following: member’s name, social security number, date of birth, date of hire, occupation code, gender, mailing address, and employer identification number. When an employee terminates employment with a covered employer, the employer shall provide the termination date and the date of the employee’s final paycheck.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours or by the exercise of bumping rights to avoid a layoff. Rescinded ARC 2981C, IAB 3/15/17, effective 4/19/17.

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70 and 2009 Iowa Acts, chapter 170, section 51, as amended by 2010 Iowa Acts, House File 2518, sections 36 and 41.

[Filed 5/21/04, Notice 4/14/04—published 6/9/04, effective 7/14/04] [Filed emergency 6/4/04—published 6/23/04, effective 7/1/04] [Filed 7/30/04, Notice 6/23/04—published 8/18/04, effective 9/22/04] [Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04] [Filed 5/6/05, Notice 3/30/05—published 5/25/05, effective 7/1/05] [Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06] [Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06] [Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06] [Filed 5/3/07, Notice 3/28/07—published 5/23/07, effective 6/27/07] [Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08] [Filed emergency 6/25/08—published 7/16/08, effective 6/25/08] [Filed 8/20/08, Notice 7/16/08—published 9/10/08, effective 10/15/08] [Filed ARC 7591B (Notice ARC 7453B, IAB 12/31/08), IAB 2/25/09, effective 7/1/09] [Filed Emergency ARC 7759B, IAB 5/6/09, effective 4/17/09] [Filed ARC 7916B (Notice ARC 7760B, IAB 5/6/09), IAB 7/1/09, effective 8/5/09] [Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10] [Filed Emergency ARC 8929B, IAB 7/14/10, effective 6/21/10] [Filed ARC 9068B (Notice ARC 8928B, IAB 7/14/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 9397B (Notice ARC 9310B, IAB 12/29/10), IAB 2/23/11, effective 3/30/11]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]
[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 5
EMPLOYEES
[Prior to 6/9/04, see 581—Ch 21]

495—5.1(97B) Identification of employees covered by the IPERS retirement law.

5.1(1) Definition of employee—generally. A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term “control” refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an “employee” as defined in the agreement between the state of Iowa and the Secretary of Health and Human Services, without the element of direction and control.

A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration.

5.1(2) Optional coverage procedures—July 1, 1994, through December 31, 1998. Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.1A(8) must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

5.1(3) Election out of Iowa Code chapter 97B coverage by certain protection occupation groups. Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995.

5.1(4) Optional coverage procedures—January 1, 1999. Effective January 1, 1999, new hires who may elect out of IPERS coverage shall be covered on the date of hire and shall have 60 days to elect out of coverage in writing using IPERS’ forms. Notwithstanding the foregoing, employees who had the right to elect IPERS coverage prior to January 1, 1999, but did not do so, shall be covered as of January 1, 1999, and shall have until December 31, 1999, to elect out of coverage.

495—5.2(97B) Coverage treatment for specific employee classifications. Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are explicitly excluded or membership is made optional under Iowa Code section 97B.1A(8) “b,” while other classes are excluded or membership is made optional by their nature. The following subrules are designed to clarify the status of certain employee positions.

5.2(1) Elected officials. Effective January 1, 1999, the following persons shall be covered by IPERS unless they elect out of coverage:
   a. Elected officials in positions for which the compensation is on a fee basis;
   b. Elected officials of school districts;
   c. Elected officials of townships; and
   d. Elected officials of other political subdivisions who are in part-time positions.

An elected official who becomes covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member’s term of office or, if a member of the general assembly, of the intention to terminate coverage.
An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official shall be covered unless the official elects out of coverage.

5.2(2) County and municipal court bailiffs who receive compensation for duties shall be covered.

5.2(3) Full-time city attorneys shall be covered. Part-time city attorneys who are considered to be public officers or public employees shall be covered.

5.2(4) Magistrates shall be covered unless they elect out of IPERS coverage. Having made a choice to remain in IPERS coverage, a magistrate may not revoke that election and discontinue such coverage.

5.2(5) Office and clerical staff of a county medical examiner’s office shall be covered. Effective January 1, 1995, county medical examiners and deputy county medical examiners who are full-time county employees shall be covered.

5.2(6) Police, firefighters, emergency personnel, and certain peace officers.
   a. Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 shall be covered.
   b. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer shall be covered as firefighters.
   c. Effective January 1, 1995, part-time police officers shall be covered in the same manner as full-time police officers.
   d. Reserve peace officers employed under Iowa Code chapter 80D shall not be covered in accordance with Iowa Code section 80D.14.
   e. A police chief or fire chief who has submitted a written request to the board of trustees created by Iowa Code section 411.36 to be exempt from coverage under Iowa Code chapter 411 shall not be covered under IPERS in accordance with Iowa Code sections 384.6(1) and 411.3. The city shall make on behalf of such person the contributions required under Iowa Code section 384.6(1) to the International City Management Association/Retirement Corporation.
   f. Peace officer candidates of the department of public safety shall not be covered.

5.2(7) County social welfare employees shall be covered.

5.2(8) Members of county soldiers relief commissions and their administrative or clerical employees shall be covered.

5.2(9) Part-time elected mayors, mayors of townships, and mayors who are paid on a fee basis are covered under IPERS unless they elect out of coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

5.2(10) Field assessors shall be covered.

5.2(11) Members of county boards of supervisors who receive an annual salary shall be covered. Effective for terms of office beginning January 1, 1999, part-time members of county boards of supervisors who receive an annual salary or are paid on a per diem basis shall be covered unless they elect out of coverage.

5.2(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year shall be covered unless the employee elects out of coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

5.2(13) Effective July 1, 2008, temporary employees shall not be covered provided that they have not established an ongoing relationship with an IPERS-covered employer. An ongoing relationship with an IPERS-covered employer is established when:
   a. The employee is paid covered wages of $1,000 or more per quarter in two consecutive quarters; or
   b. The employee is employed by a covered employer for 1,040 or more hours in a calendar year.

Coverage shall begin when the permanency of the relationship is established and shall continue until the employee’s relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer shall continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter.
No service credit will be granted to a temporary employee who has become a covered employee under this rule for any quarter in which no covered wages are reported unless the employee is on a leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20). Contributions shall be paid, and service credit shall be accrued, when wages are paid in the quarter after the ongoing relationship has been established.

5.2(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts shall be covered unless they elect out of coverage.

5.2(15) Full-time and part-time county attorneys shall be covered.

5.2(16) Tax study committee employees shall be covered.

5.2(17) School bus drivers who are considered to be public employees shall be covered. School bus drivers who are independent contractors shall not be covered. A determination must be made by IPERS on the facts presented on a case-by-case basis.

5.2(18) Full-time or part-time students employed part-time by the educational institution where they are enrolled shall not be IPERS-covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers. If the employer is not the institution where the college student is enrolled, the college student is not exempt from IPERS coverage and employers would determine IPERS coverage by applying the usual permanent or temporary rules.

High school and lower grade students continue to be exempt from IPERS coverage.

5.2(19) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their fields of specialized knowledge or skill shall not be covered.

5.2(20) Members of any other retirement system in Iowa maintained in whole or in part by public funds shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by another retirement system in Iowa, shall remain an IPERS-covered employee, unless the employee receives credit in such other retirement system for both jobs.

5.2(21) Members who are contributing to the federal civil service retirement system or federal employees retirement system shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by a federal retirement system, shall be considered as an IPERS-covered employee, unless the employee receives credit in such federal retirement system for both jobs.

5.2(22) Employees of credit unions without capital stock organized and operated for mutual purposes without profit shall not be covered.

5.2(23) Members of the ministry, rabbinate or other religious order who perform full-time or part-time religious service for a covered employer shall be covered. However, members of the ministry, rabbinate or other religious order who have taken the vow of poverty may elect out of coverage.

5.2(24) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer shall be covered. However, any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income shall not be covered, except for city attorneys and health officials.

5.2(25) Interns and resident doctors employed by a state or local hospital, school or institution shall not be covered.

5.2(26) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, shall be covered.

5.2(27) Effective July 1, 1994, volunteer firefighters and special police officers are considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13).

5.2(28) Residents or inmates of county homes shall not be covered.

5.2(29) Members of the state transportation commission, the board of parole, and the state health facilities council shall be covered unless they elect out of coverage.

5.2(30) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state, if the city had made contributions to the system for employees
performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

5.2(31) City managers, or city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 shall be covered unless they elect out of coverage.

5.2(32) Employees appointed by the state board of regents shall be covered unless, at the discretion of the state board of regents, they elect coverage in an alternate retirement system qualified by the state board of regents.

5.2(33) Employees who work in additional positions with additional duties, along with normal duties with the same employer, shall be considered covered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver’s education instructor; and city employee/paid firefighter.)

5.2(34) Adjunct instructors employed by a community college or university shall not be covered. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or noncredit contact hours that the community college or university considers to be a full-time teaching load for a regular full semester or quarter. An adjunct instructor whose teaching load exceeds the foregoing limitations shall be covered.

In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period.

If there is no formal severance, an adjunct instructor who becomes a covered employee shall remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20).

5.2(35) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor shall not be covered unless:

a. Both the enrollee and the covered employer elect coverage; or

b. The enrollee is currently contributing to IPERS.

For purposes of this subrule only, a covered employer is defined as the host agency where the enrollee is placed for training.

5.2(36) Employees of area agencies on aging shall be included. However, effective July 1, 1994, employees of area agencies on aging shall not be covered if the area agency has provided for participation by all of its eligible employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code. If an area agency on aging does not participate in an alternative plan, or terminates participation in such plan, IPERS coverage shall begin immediately.

5.2(37) Effective July 1, 1994, arson investigators shall not be covered. They were transferred to the public safety peace officers’ retirement, accident and disability system as found in Iowa Code chapter 97A.

5.2(38) Persons who meet the requirements of independent contractor status as determined by IPERS using the criteria established by the federal Internal Revenue Service shall not be covered.

5.2(39) Effective July 1, 1994, a person employed on or after that date for certain public safety positions shall not be covered. These positions are gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers, and employees of the division of capitol police (except clerical workers).
5.2(40) Employees of area community colleges shall be covered unless they elect coverage under an alternative system pursuant to a one-time irrevocable election.

5.2(41) Volunteer emergency personnel, such as ambulance drivers, shall be considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13). Persons who meet such requirements shall be covered under the protection occupation requirements of Iowa Code section 97B.49B if they are considered firefighters by their employers; otherwise they shall be covered under Iowa Code section 97B.11.

5.2(42) Persons employed through any program described in Iowa Code section 84A.7 and provided by the Iowa conservation corps shall not be covered.

5.2(43) Appointed and full-time elective members of boards and commissions who receive a set salary shall be covered. Effective January 1, 1999, part-time elective members of boards and commissions not otherwise described in these rules who receive a set salary shall be covered unless they elect out of coverage. Members of boards, other than county boards of supervisors, and commissions, including appointed and elective full-time and part-time members, who receive only per diem and expenses shall not be covered.

5.2(44) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

5.2(45) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

5.2(46) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall not be covered.

5.2(47) Persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

5.2(48) Effective July 1, 1999, persons performing referee services for a covered employer shall not be covered, unless the performance of such services is included in the persons’ regular job duties for the employer for which such services are performed.

5.2(49) Effective July 1, 2000, patient advocates appointed under Iowa Code section 229.19 shall be covered.

5.2(50) Employees of the Iowa student loan liquidity corporation shall not be covered.


495—5.3(97B) Participation in IPERS and another retirement system. Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for any position held.

These rules are intended to implement Iowa Code sections 97B.1A, 97B.4, 97B.11, 97B.42, 97B.42A, 97B.49B, 97B.49C, and 97B.49G.

[Filed 5/21/04, Notice 4/14/04—published 6/9/04, effective 7/14/04]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08]
[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
495—6.1(97B) IRS requirements. Wages as discussed in this chapter shall not exceed the amount permitted for a given year under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code, which are incorporated herein by reference.

495—6.2(97B) Definition of wages. “Wages” means all compensation earned by employees including, except as otherwise provided under this chapter, vacation pay; sick pay; back pay; amounts deducted from the employee’s pay at the employee’s discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents. This definition applies to these rules, regulations, interpretations, forms and other IPERS publications unless the context otherwise requires.

495—6.3(97B) IPERS coverage for various forms of compensation. The following is a list of various types of compensation and the corresponding IPERS coverage treatment:

6.3(1) Vacation pay or annual leave pay. Vacation pay or annual leave pay means the amount paid to an employee during a period of vacation.

6.3(2) Sick pay. Sick pay means payments made for sick leave which are a continuation of salary payments.

6.3(3) Workers’ compensation payments and other third-party payments. Workers’ compensation payments, unemployment payments, or short-term and long-term disability payments made by an insurance company or third-party payer, such as a trust, are not included as wages. Payments for sick leave which are a continuation of salary payments if paid from the employer’s general assets, regardless of whether the employer labels the payments as sick leave, short-term disability, or long-term disability, are covered wages.

6.3(4) Compensatory time. Wages include amounts paid for compensatory time taken in lieu of regular work hours or when paid as a lump sum. However, compensatory time paid in a lump sum shall not exceed 240 hours per employee per year or any lesser number of hours set by the employer. Each employer shall determine whether to use the calendar year or a fiscal year other than the calendar year when setting its compensatory time policy.

6.3(5) Banked holiday pay. If an employer codes banked holiday time as holiday or additional accrued vacation time, the banked holiday pay will be vacation pay under subrule 6.3(1). If an employer codes banked holiday time as compensatory time, the banked holiday pay will be combined with compensatory pay and subject to the limits set forth in subrule 6.3(4).

6.3(6) Special lump sum payments. Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include: catastrophic leave paid in a lump sum, bonuses, tips, honoraria, or student loan repayment compensation. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

6.3(7) Covered wage treatment for supplemental payments.

a. Payments excluded from covered wages as bonuses include the following:

(1) Recruitment payments.
(2) Retention payments.
(3) Payments to members who achieve improvements in their employer’s financial status or performance ratings.
(4) Employee performance incentive payments.
(5) Extraordinary job performance payments.
(6) Payments for the possession, attainment, or maintenance of special skills or professional certifications (does not apply to advancements in a member’s placement in wage or salary schedule, or placement in a higher tier wage or salary schedule).

(7) Payments to members made in lieu of merit increases because the members’ wage or salary scales are capped.

(8) Payments similar in substance to those enumerated above without regard to the payments’ titles, tag lines, labels or classifications by employers.

b. Payments included in covered wages that are not to be treated as bonuses include the following:

(1) Payments authorized by statute and used to increase the general level of teacher pay, except as otherwise provided in this subrule (for example, when such moneys are used to pay retention bonuses).

(2) Payments for which additional, or new and different, job duties are required in order to receive the payment.

(3) Payments for employment longevity.

c. Payments that are otherwise to be treated as covered wages under paragraph “b” shall not be covered if IPERS determines that the payments are made for paragraph “a,” subparagraphs (1) to (8), of this subrule or other subrules, including, but not limited to, recruitment or retention bonuses, retirement incentive and severance payments, reimbursements of business expenses, and payment of allowances.

d. IPERS shall have the final authority to determine if supplemental payments not described in paragraphs “a,” “b” and “c” of this subrule should be treated as excluded bonus payments or covered wages. In making its determination, IPERS may consider, but is not limited to, such factors as the supplemental payments’ similarity to payments described in paragraphs “a,” “b” and “c” of this subrule, whether such payments are discretionary with the employer, and whether, on the one hand, the payments are regular and periodic over the working careers of a broad group of individuals or, on the other hand, are short-term, irregular, or ad hoc payments whose primary effect is to spike certain members’ final average salaries.

6.3(8) Other special payment arrangements. Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This limitation includes, but is not limited to, the practice of increasing an employee’s wages by the employer’s share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. Wages do not include employer contributions to a plan, program, or arrangement that are not included in the employee’s federal taxable income. However, certain employer contributions under IRC Section 125 plans are permitted to be treated as covered wages under rule 495—6.5(97B) subject to the terms of that rule.

Employers and employees that knowingly and willfully enter into the types of arrangements described in this subrule, causing an impermissible increase in the payments authorized under Iowa Code chapter 97B, may be prosecuted under Iowa Code section 97B.40 for engaging in a fraudulent practice. If IPERS determines that its calculation of a member’s monthly benefit includes amounts paid under an arrangement described in this subrule, IPERS shall recalculate the member’s monthly benefit, after making the appropriate wage adjustments. IPERS may recover the amount of overpayments caused by the inclusion of the payments described in this subrule from the monthly amounts plus interest payable to the member or amounts payable to the member’s successor(s) in interest, regardless of whether or not IPERS chooses to prosecute the employers and employees under Iowa Code section 97B.40.

6.3(9) Wage equivalents. Items such as food, lodging and transportation are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not reportable under IPERS if given for the convenience of the employing unit or are not reasonably quantifiable. Wage equivalents that are not included in the member’s federal taxable income shall be deemed to be for the convenience of the employer. A wage equivalent is not reportable if the employer...
certifies that there was a substantial business reason for providing the wage equivalent, even if the wage equivalent is included in the employee’s federal taxable income. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

6.3(10) Members of the general assembly. Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary. Wages include per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly. Such nontravel expenses of office during a session of the general assembly shall not exceed the maximum established by law for members from Polk County. A member of the general assembly who has elected to participate in IPERS shall receive four quarters of service credit for each calendar year during the member’s term of office, even if no wages are reported in one or more quarters during a calendar year.

6.3(11) Wages restored following an employer-mandated reduction in hours. Recinded IAB 3/15/17, effective 4/19/17.

6.3(12) Wages paid as a back pay settlement. IPERS contributions must be calculated on the gross amount of a back pay settlement before the settlement is reduced for taxes, interim wages, unemployment compensation, and similar mitigation of damages adjustments. IPERS contributions must be calculated by reducing the gross amount of a back pay settlement by any amounts not considered covered wages such as, but not limited to, lump sum payments for medical expenses.

Notwithstanding the foregoing, a back pay settlement that does not require the reinstatement of a terminated employee and payment of the amount of wages that would have been paid during the period of severance (before adjustments) shall be treated by IPERS as a “special lump sum payment” under subrule 6.3(6) and shall not be covered.

6.3(13) Limitations on benefits and contributions.

a. Section 415(b) limitations on benefits. A member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Internal Revenue Code Sections 415(b) and 415(d). For purposes of applying the limits under Internal Revenue Code Section 415(b) (Limit), the following will apply:

   (1) With respect to a member who does not receive a portion of the member’s annual benefit in a lump sum:

   1. The member’s Limit will be applied to the member’s annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

   2. To the extent the member’s annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost-of-living increases under the IPERS trust fund until such time as the benefit plus the accumulated increases are less than the applicable Limit; and

   3. Thereafter, in any subsequent limitation year, the member’s annual benefit including any automatic cost-of-living increase shall be tested under the then applicable benefit Limit, including any adjustment to the Internal Revenue Code Section 415(b)(1)(A) dollar limit under Internal Revenue Code Section 415(d) (cost-of-living adjustments) and the regulations thereunder; and

   (2) With respect to a member who receives a portion of the member’s annual benefit in a lump sum:

   1. The member’s applicable Limit shall be applied taking into consideration automatic cost of living increases as required by Internal Revenue Code Section 415(b) and applicable Treasury Regulations; and

   2. In no event shall a member’s annual benefit payable under the system in any limitation year be greater than the Limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal Revenue Code Section 415(d) and the regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent straight life annuity benefit determined using the assumptions required by Treasury Regulations, including the mortality table specified in Revenue Ruling 2001-62 or Revenue Ruling 2007-67, as applicable.
b. Section 415(c) limitations on contributions and other member additions. Member contributions and other additions paid to the system may not exceed the annual limits on contributions and other additions allowed by Internal Revenue Code Section 415(c). For purposes of applying these limits, the definition of “compensation,” where applicable, will be compensation as defined in Treasury Regulation Section 1.415(c)-2(d)(3), or successor regulation. The foregoing definition of compensation will exclude member contributions picked up under Internal Revenue Code Section 414(h)(2) and, for plan years beginning after December 31, 1997, compensation will include the amount of any elective deferrals, as defined in Internal Revenue Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Internal Revenue Code Section 125 or 457 and, for plan years beginning on and after January 1, 2001, pursuant to Internal Revenue Code Section 132(f)(4).

c. Limitation year. The limitation year is the calendar year.

6.3(14) Employer payments treated as remuneration counted against the reemployment earnings limit. All taxable or nontaxable compensation, regardless of the title, tag line, label, or classification attributed to that compensation paid by IPERS-covered employers to retired reemployed IPERS members, shall be considered remuneration when determining reemployment earnings limits and reductions as set forth under Iowa Code section 97B.48A and rule 495—12.8(97B). This rule shall apply whether the compensation is paid pursuant to individual contracts or otherwise, and regardless of whether it is considered covered or noncovered compensation under Iowa Code section 97B.1A(26) and the administrative rules thereunder, except for:

a. Contributions to health insurance plans and programs, and

b. Reimbursements of actual work-related expenses required by the retired reemployed members’ jobs.

6.3(15) Employer contributions as remuneration counted against the reemployment earnings limit. Employer contributions made on behalf of retired reemployed members to tax qualified and nonqualified retirement and deferred compensation plans and to other fringe benefit arrangements, excluding health insurance plans and programs, shall constitute remuneration from employment which shall be applied to the reemployment earnings limits and reductions set forth under rule 495—12.8(97B). Such contributions, even if counted as remuneration hereunder, shall not be counted as covered wages, unless the facts in the particular case indicate that, under the circumstances, the arrangement should be treated as covered wages under rules 495—6.1(97B) through 495—6.5(97B). Nonelective employer contributions to the following shall constitute remuneration when determining reemployment earnings limits: tax qualified retirement and deferred compensation plans; all nonqualified retirement plans and deferred compensation arrangements; IRAs; rabbi, secular, and other trust arrangements; split dollar and other life insurance arrangements; and long-term care insurance.

[ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—6.4(97B) Month for which wages are to be reported. Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file with IPERS wage adjustments allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

6.4(1) Actual and constructive receipt. An employer cannot report wages as having been paid to employees as of a monthly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as June wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as July wages.

6.4(2) One quarter of service will be credited for each quarter in which a member is paid IPERS-covered wages.
a. “Covered wages” means wages of a member during periods of service that do not exceed the annual covered wage maximum as permitted for a given year under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code, which are incorporated herein by this reference.

b. Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)

c. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by all covered employers shall be included in determining the annual covered wage limit established under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code. If the amount of wages paid to a member by several employers during any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. IPERS shall not accept excess wages and applicable contributions from employers and shall return excess contributions as provided in 495—subrule 4.3(8).

[ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—6.5(97B) Covered wage treatment for employer contributions to IRC Section 125 plans. If certain conditions are met, employer contributions to fringe benefit programs that qualify under IRC Section 125 may be treated as covered wages. The following subrules set forth IPERS’ regulations for determining covered wage treatment and for making wage adjustments when employer-paid contributions have been covered or excluded in violation of the standards set forth below.

6.5(1) Section 125 plans. For purposes of this rule, a Section 125 plan means an employer-sponsored fringe benefit plan that is subject to Section 125 of the federal Internal Revenue Code (IRC). Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

a. Effective January 1, 2017, employers must annually certify to IPERS, on a form approved by the system, that their Section 125 plans meet all IRC requirements.

b. If an employer does not certify its Section 125 plan’s compliance with the IRC, all employer contributions to fringe benefit plans will be excluded from IPERS coverage.

6.5(2) Elective employer contributions. For purposes of this rule, “elective employer contributions” means employer contributions made to a Section 125 plan that can be received in cash or used to purchase benefits under the Section 125 plan. Generally, elective employer contributions that are not subject to special eligibility requirements qualify as covered wages.

6.5(3) Mandatory minimum coverage requirements. The term “elective employer contributions” does not include employer contributions that must be used to purchase benefits under a Section 125 plan. For example, if an employer provides $2,500 to its employees to purchase benefits in a Section 125 plan, but requires that all employees must use $1,000 of that amount to purchase single health coverage, the cost of the single coverage is deducted. In this example, $1,000 would be subtracted from the $2,500 provided, resulting in $1,500 of covered wages.

6.5(4) Uniformity determined coverage group by coverage group. Iowa Code section 97B.1A(26)”a”(1)”b” states that elective employer contributions shall be treated as covered wages only if made uniformly available and not limited to highly compensated employees. The application of the uniformity concept may be illustrated as follows: Employer Z has two major groupings of employees covered under its cafeteria plan: teaching staff and support staff. Every member of the teaching staff is provided $3,000 to purchase benefits under the Section 125 plan. Every member of the teaching staff must take single coverage costing $1,500. Every member of the support staff is provided $2,500 and must also take the single coverage costing $1,500. Each member of the teaching staff would have $1,500 treated as covered wages, and each member of the support staff would have $1,000 treated as covered wages. This would be considered uniform treatment.

Uniformity is not destroyed by the fact that the amount available to members of a coverage group varies because the actual cost of mandatory minimum coverage varies depending on actuarial factors that apply to each individual. For example, assume Employer Z above also requires each employee to
have long-term disability coverage. In Employer Z’s case, the actual cost of disability coverage will vary from individual to individual. In that case, Employer Z would also deduct the actual cost of the required disability coverage, individual by individual, when determining IPERS-covered wages.

Uniformity is not destroyed if an employer has two groups of employees who, as a result of collective bargaining, have differing entitlements to employer contributions. For example, Employer Y has a contract that provides $3,500 to each employee to purchase benefits under the Section 125 plan. Every employee may take all the cash by waiving participation in the plan, or may use all or part of the employer contributions to the Section 125 plan. In the collective bargaining process, a new contract is adopted which states that the employer will still provide $3,500 to each employee to purchase benefits under the Section 125 plan. However, under the new contract, persons who waived participation before April 15 may still waive participation in the plan and take all the cash, but persons who did not waive participation and those hired after April 15 must have single coverage costing $1,700. Employer Y would be treated as having two groups of employees with different elective employer contribution amounts. The grandfathered group (employees who waived participation before April 15) would have covered wages of $3,500, and the group consisting of those who did not waive participation before April 15 and new employees would have covered wages of $1,800.

6.5(5) Highly compensated employee test. Iowa Code chapter 97B provides that, in addition to being uniformly available, employer contributions must not discriminate in favor of highly compensated employees (HCEs). For purposes of this subrule, an HCE is an employee who has reported wages and tips subject to Medicare tax in excess of the IRC Section 414(q) limit then in effect. IPERS shall apply the HCE limitation as follows. If elective employer contributions are made available to HCEs, the total elective employer contributions made available to the HCE group must not exceed 25 percent of the total elective employer contributions made available under the Section 125 plan to all employees, including the HCEs. If the elective employer contributions available to the HCE group exceed the 25 percent limit (or if it is determined that the Section 125 plan discriminates in favor of HCEs under other IRS rules), elective employer contributions for HCEs shall not exceed the highest amount available to a nonexecutive coverage group of employees covered under such plan. The general application of these principles is illustrated below, using the 2002 IRC Section 414(q) dollar limit of $90,000.

Employer W has a Section 125 plan that provides elective employer contributions totaling $7,000 to executive staff, $4,500 to teaching staff, and $3,500 to support staff. There are no other limits or exclusions that apply. These amounts are treated as covered wages for each member of each group, provided that the total amount of contributions made available to HCEs does not exceed 25 percent of the total elective employer contributions for all employees covered under the plan. If elective employer contributions for the executive staff totaled $70,000, and total elective employer contributions for the executive staff totaled $70,000, and total elective employer contributions for the remainder of the staff totaled $500,000, the HCE percentage of total elective employer contributions would be 12 percent ($70,000 divided by $570,000), and all elective employer contributions would be treated as covered wages for all groups. However, if elective employer contributions for the executive staff totaled $70,000, and elective employer contributions for the remainder of the staff totaled $200,000, the HCE percentage would be 26 percent ($70,000 divided by $270,000), and HCEs’ elective employer contributions would be limited to $4,500 per HCE for covered wage purposes.

6.5(6) Elective employer contributions limited to dual coverage employees. In some cases, a Section 125 plan provides for what appear to be mandatory employer contributions for health plan coverage, but the terms of the Section 125 plan permit dual coverage employees to waive coverage and receive the employer contributions in cash, if the employee can prove coverage under another health care plan. IPERS shall continue to treat the full amount of employer contributions in such cases as not being IPERS-covered wages, even though individual employees with the described dual coverage may actually receive the employer contribution in cash.

6.5(7) Corrections for overpayments and underpayments of contributions and benefits caused by Section 125 plan covered wage errors. IPERS shall use the following guidelines in requiring corrections for overpayments and underpayments of contributions and benefits caused by the erroneous inclusion or exclusion of employer contributions to a Section 125 plan. Corrections must be made for all active, terminated and retired members, subject to the following limitations:
a. If elective employer contributions that should have been covered were not covered, wage adjustments shall be filed, and employers shall be billed for all shortages plus interest. Employers shall be entitled to collect reimbursement for the employee share of contributions as provided in Iowa Code section 97B.9. If retirement benefits, death benefits or refunds have been underpaid as a result of the error, IPERS shall, upon receipt of the contribution shortage, make the appropriate adjustments and pay all back benefits.

b. If employer contributions that should not have been covered were covered, wage adjustments shall be filed, and the appropriate contribution amounts shall be repaid to employers for distribution to the respective employee and employer contributors. If the reporting error caused an overpayment of retirement benefits, death benefits, or refunds, IPERS shall offset excess contributions received against overpayments and shall request a repayment of the remainder of the overpayment, if any, from the recipient.

Wage adjustments, overpayments, and underpayments and unintentional reporting errors shall be determined as of the onset of the error, but shall be limited to three years before the beginning of the current contract year for school employers, or current fiscal year for all other covered employers. IPERS may go back to the onset of the error, even if the period exceeds three years, if the error is caused by intentional misconduct or gross neglect. Notwithstanding the foregoing adjustment and collection standards, IPERS reserves the right to negotiate adjustments with individual employers in special situations, and no negotiated settlement with an employer shall be deemed to constitute a waiver of this rule or a binding precedent for other employers.

6.5(8) Bounties.

a. Effective prior to June 21, 2010, in some cases, an employer has a Section 125 plan with employer contributions, and what IPERS refers to as a bounty option. A bounty is an amount that may be elected by all employees, or by a subset of that group, such as employees with coverage under another health care plan, either in lieu of any coverage under the employer’s health care plan, or in lieu of family coverage. A bounty is generally set at an amount that is less than the amount that would otherwise be available to purchase benefits under the Section 125 plan. IPERS does not treat bounties as covered wages. The uniformity and nondiscrimination principles described in subrule 6.5(4) do not apply to such benefits.

b. Paragraph “a” no longer applies effective June 21, 2010. An employer that has relied on the bounty rule to exclude bounty payments from covered wages shall have until September 1, 2010, to bring payroll processes and prospective wage coverage into compliance. No retroactive adjustment shall be required for employers that relied on paragraph “a” for periods prior to September 1, 2010.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 2402C, IAB 2/17/16, effective 3/23/16]

These rules are intended to implement Iowa Code sections 97B.1A(26), 97B.9, 97B.11, 97B.14 and 97B.14A.
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 10
INTEREST ON ACCUMULATED CONTRIBUTIONS
[Prior to 11/24/04, see 581—Ch 21]

495—10.1(97B) Interest on accumulated contributions of active and inactive members. The term “interest” as used in this rule means a per annum interest rate at one percent above the interest rate on one-year certificates of deposit which shall be credited to the member’s contributions and the employer’s contributions to become part of the accumulated contributions. For purposes of this rule, the interest rate on one-year certificates of deposit shall be determined by IPERS based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication, including Internet-based publications, of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter. Interest shall be applied through the calendar quarter preceding the quarter in which any distribution is made.

[ARC 2981C; IAB 3/15/17, effective 4/19/17]

495—10.2(97B) Erroneous contributions. Interest shall not be credited to a member’s account if the wages were reported in error.

495—10.3(97B) Interest on undistributed accumulated contributions after member’s death. Interest shall continue to accrue on the undistributed accumulated contributions of a deceased member, based on the member’s vested status at date of death, and the interest crediting method described in rule 10.1(97B). No interest shall be credited to any postretirement death benefit payable with respect to that member’s account under Iowa Code chapter 97B. If IPERS determines that a dispute among alleged heirs exists which delays the payment of death benefits on which interest would be payable, the amount of the death benefits shall be placed in a non-interest-bearing account.


These rules are intended to implement Iowa Code sections 97B.52, 97B.53 and 97B.70.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 11
APPLICATION FOR, MODIFICATION OF, AND TERMINATION OF BENEFITS

495—11.1(97B) Application for benefits.

11.1(1) Form used. It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

a. Proof of date of birth for the member.
b. Option selected, and
(1) If Option 1 is selected, the death benefit amount.
(2) If Option 4 or 6 is selected, the contingent annuitant’s name, social security number, proof of date of birth, and relationship to member. The member must designate the survivor benefit percentage, which shall be limited to one of the following:
   1. One hundred percent of the member’s benefit amount.
   2. Seventy-five percent of the member’s benefit amount.
   3. Fifty percent of the member’s benefit amount.
   4. Twenty-five percent of the member’s benefit amount.
(3) If Option 1, 2, or 5 is selected, a list of beneficiaries.
c. If the member has been terminated less than one year, or is applying for disability benefits, the employer certification page must be completed by the employer unless the employer has provided the termination date and date of the last paycheck on the monthly wage reports.
d. Signature of member and spouse, both properly notarized unless witnessed by an authorized employee of the system.
e. If the member has no spouse, “NONE” must be designated.
f. If the member is applying for regular disability benefits, a copy of the award letter from the Social Security Administration or railroad retirement.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

11.1(2) Proof required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver’s license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver’s license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

a. United States census record;
b. Military record or identification card;
c. Naturalization record;
d. A marriage license showing age of applicant in years, months and days on date of issuance;
e. A life insurance policy;
f. Records in a school’s administrative office;
g. An official document from the U.S. Citizenship and Immigration Services, such as a “green card,” containing such information;
h. Driver’s license or Iowa nondriver identification card;
i. Adoption papers;

j. A family Bible record. A photocopy will be accepted with a notarized certification that the record appears to be genuine; or

k. Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

If the member, the member’s representative, or the member’s beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS’ own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS’ status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS’ intent to begin mandatory payments.

11.1(3) Benefits estimates. Prior to submitting an application for benefits, a member may request IPERS to prepare estimates of projected benefits under the various options as described under Iowa Code section 97B.51. A benefit estimate shall not bind IPERS to payment of the projected benefits under the various options specified in Iowa Code chapter 97B. A member cannot rely on the benefit estimate in making any retirement-related decision or taking any action with respect to the member’s account, nor shall IPERS assume any liability for such actions. An estimate will not include deductions for a QDRO or any other legal assignments or orders on a member’s account, unless specifically requested by the member. A member’s actual benefit can only be known and officially calculated when an eligible member applies for benefits.

11.1(4) Revocation of application. If IPERS determines an application for benefits is invalid for any reason, IPERS shall revoke, in whole or in pertinent part, the application for benefits and the recipient shall repay all payments made under the revoked application or all payments made pursuant to the revoked part of the application. The terms of repayment shall be subject to the provisions of 495—11.7(97B).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—11.2(97B) Retirement benefits and the age reduction factor.

11.2(1) Normal retirement.

a. A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 65, if otherwise eligible.

b. Effective July 1, 1998, a member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 62, if the member has 20 years of service and is otherwise eligible.

c. Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member’s age on the last birthday and the member’s years of service equal or exceed 88, provided that the member is at least the age of 55 and is otherwise eligible.

11.2(2) Early retirement. A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month after attaining the age of 55 before the member’s normal retirement date, provided the date is after the last day of service and the member is otherwise eligible.

11.2(3) Aged 70 and older retirees. A member shall be eligible to receive monthly retirement benefits with no age reduction effective with the first day of the month in which the member attains the age of 70, even if the member continues to be employed.

11.2(4) Required beginning date.
a. Notwithstanding the foregoing, IPERS shall commence payment of a member’s retirement benefit under Iowa Code sections 97B.49A to 97B.491 (under Option 2) no later than the “required beginning date” specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The “required beginning date” is defined as the later of: (1) April 1 of the year following the year that the member attains the age of 70½, or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. If IPERS distributes a member’s benefits without the member’s consent in order to begin benefits on or before the required beginning date, the member may elect to receive benefits under an option other than the default option described above, or as a refund, if the member contacts IPERS in writing within 60 days of the first mandatory distribution. IPERS shall inform the member which adjustments or repayments are required in order to make the change.

c. If a member cannot be located to commence payment on or before the required beginning date described above, the member’s benefit shall be forfeited. However, if a member later contacts IPERS and wishes to file an application for retirement benefits, the member’s benefits shall be reinstated.

d. For purposes of determining benefits, the life expectancy of a member, a member’s spouse, or a member’s beneficiary shall not be recalculated after benefits commence.

e. If an IPERS member has a qualified domestic relations order (QDRO) on file when a mandatory distribution is required, and the QDRO requires the member to choose a specific retirement option, IPERS shall pay benefits under the option required by the order.

11.2(5) Mandatory distribution of small inactive accounts. As soon as practicable after July 1, 2004, IPERS shall distribute small inactive accounts to members and beneficiaries as authorized in Iowa Code section 97B.48(5).


[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15]

495—11.3(97B) First month of entitlement (FME).

11.3(1) General. A member shall submit a written application to IPERS setting forth the retirement date, provided the member has attained at least age 55 by the retirement date and the retirement date is after the member’s last day of service. A member’s first month of entitlement shall be no earlier than the first day of the first month after the member’s last day of service or, if later, the month provided for under subrule 11.3(2). No payment shall be made for any month prior to the month the completed application for benefits is received by IPERS.

If a member files a retirement application but fails to select a valid first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member’s address.

11.3(2) Additional FME provisions.

a. Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member’s date of termination or last day of leave, with or without pay, whichever is later.

b. Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination.

c. Effective January 1, 2001, employees of a school corporation who are permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of
the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this paragraph, “school corporation” means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). For purposes of this paragraph, “trailing wages” means previously earned wage payments made to such employees of a school corporation after the first month of entitlement. This exception does not apply to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.

For all employees of all IPERS-covered employers who terminate employment in January 2003, or later, if the final paycheck is paid within the same quarter or within one quarter after termination and wages are reported under the normal pay schedule, the first month of entitlement shall be the month following termination. However, if the last paycheck is paid more than one quarter after the termination, the first month of entitlement shall be the first month after the employee is paid the last paycheck. Under no circumstances shall such trailing wages result in more than one quarter of service credit being added to retiring members’ earning records.

11.3(3) Survival into designated FME. To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member’s application for monthly benefits is canceled and the distribution of the member’s account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

11.3(4) Members retiring under the rule of 88. The first month of entitlement of a member qualifying under the rule of 88 shall be the first of the month when the member’s age as of the last birthday and years of service equal 88. The fact that a member’s birthday allowing a member to qualify for the rule of 88 is the same month as the first month of entitlement does not affect the retirement date.

495—11.4(97B) Termination of monthly retirement allowance. A member’s retirement benefit shall terminate after payment is made to the member for the entire month during which the member’s death occurs. Death benefits shall begin with the month following the month in which the member’s death occurs.

Upon the death of the retired member, IPERS will reconcile the decedent’s account to determine if an overpayment was made to the retired member and if further payment(s) is due to the retired member’s named beneficiary, contingent annuitant, heirs at law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs at law, or other interested parties.

495—11.5(97B) Bona fide retirement and bona fide refund.

11.5(1) Bona fide retirement—general. To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member’s first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS’ bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does
not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member’s first month of entitlement, entered into contractual arrangements with the employer to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee’s compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period will be waived, however, if the member is elected to public office which term begins during the normal four-month bona fide retirement period. This waiver does not apply if the member was an elected official who was reelected to the same position for another term. The bona fide retirement period will also be waived for state legislators who terminate their nonlegislative employment and the IPERS coverage for their legislative employment and begin retirement but wish to continue with their legislative duties.

A member will have a bona fide retirement if the member returns to work as an independent contractor with a public employer during the four-month qualifying period. Independent contractors are not covered under IPERS.

Effective July 1, 1998, through June 30, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered by 495—Chapter 4, is terminated and the member receives at least four monthly benefit payments. In order to receive retirement benefits, the member must file a completed application for benefits with IPERS before returning to any employment with the same employer.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

11.5(2) Bona fide retirement—licensed health care professionals. For retirees whose first month of entitlement is no earlier than July 2004 and no later than June 2014, a retiree who is reemployed as a “licensed health care professional” by a “public hospital” does not have a bona fide retirement until all employment with covered employers is terminated for at least one calendar month. In order to receive retirement benefits, the member must file a completed application for benefits form before returning to any employment with a covered employer.

“Licensed health care professional” means a public employee who is a physician, surgeon, podiatrist, osteopath, psychologist, physical therapist, physical therapist assistant, nurse, speech pathologist, audiologist, occupational therapist, respiratory therapist, pharmacist, social worker, dietitian, mental health counselor, or physician assistant who is required to be licensed under Iowa Code chapter 147.

“Public hospital” means a governmental entity of a political subdivision of the state of Iowa that is authorized by legislative authority. For purposes of this subrule, a “public hospital” must also meet the requirements of Iowa Code section 249J.3. Under Iowa Code section 249J.3, a “public hospital” must be licensed pursuant to Iowa Code chapter 135B and governed pursuant to Iowa Code chapter 145A (merged hospitals), Iowa Code chapter 347 (county hospitals), Iowa Code chapter 347A (county hospitals payable from revenue), or Iowa Code chapter 392 (creation by city of a hospital or health care facility). For the purposes of this definition, “public hospital” does not include a hospital or medical care facility that is funded, operated, or administered by the Iowa department of human services, Iowa department of corrections, or board of regents, or the Iowa Veterans Home.

A “public hospital” possesses the powers conferred upon it by statute, the Iowa Constitution, and regulatory provisions that are unique to governmental entities and hospitals. For example, a “public hospital” may finance its activities by tax levies or the issuance of bonds, condemn property, hold elections, and join forces with other governmental entities in cooperative ventures that are authorized under Iowa Code chapter 28D and Iowa Code chapter 28E. “Public hospitals” are subject to scrutiny by the public by complying with Iowa Code chapter 21 (open meetings Act) and Iowa Code chapter
22 (open records Act). Public employees of a “public hospital” are covered by Iowa Code chapter 20 (public employment relations Act). A “public hospital” can be distinguished from a profit or not-for-profit hospital by examining whether the focus of the hospital is community service with profits being applied not to rates of return to investors, but to enhance community services, facility upgrading, or subsidized care for persons unable to pay the full cost of service.

This subrule only applies to reemployments that meet all the foregoing requirements and in addition occur following a “complete termination of employment.” A “complete termination of employment” means: (1) the employer must post the opening and conduct a job search; (2) the retired member must receive all termination payouts that are mandatory for other terminated employees of that employer; (3) the retired member must give up all perquisites of seniority, to the extent applicable to all other terminated employees of that employer; and (4) the retired member must not enter into a reemployment agreement with the prior employer or another public hospital as defined in this subrule prior to or during the first month of entitlement.

11.5(3) Bona fide refund. The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8)“a”(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8)“a”(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS’ bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member shall have 30 days from the date of written notice by IPERS to repay the refund in full without interest. Thereafter, in order to receive service credit for the period covered by the refund, the member shall be required to buy back the period of service at its full actuarial cost.

11.5(4) Part-time appointed members of boards or commissions receiving minimal noncovered wages. Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1)“a” for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1)“a” were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.
11.5(5) Members of the national guard who are called into state active duty. Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the bona fide retirement requirements of Iowa Code section 97B.52A as amended by 2010 Iowa Acts, House File 2518, section 33.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 0662C, IAB 4/3/13, effective 5/8/13]

495—11.6(97B) Payment processing and administration.

11.6(1) Monthly paper warrants processing fee. Effective July 1, 2005, IPERS shall charge a per-warrant processing fee to members who choose to receive paper warrants in lieu of electronic deposits of their monthly retirement allowance. The fee may be waived if the person establishes that it would be an undue hardship for the person to do what is necessary to receive payment of the person’s IPERS monthly retirement allowance by electronic deposit. The processing fee will be deducted from the member’s retirement allowance on a posttax basis.

For purposes of this subrule, a member claiming undue hardship must establish that the cost normally assessed for the processing of paper warrants would be unduly burdensome because of the member’s limited income, or is otherwise financially burdensome or physically impracticable.

11.6(2) Repeated requests for replacement warrants. Effective July 1, 2002, for a member or beneficiary who, due to the member’s or beneficiary’s own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS’ failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

11.6(3) Forgery claims. When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

11.6(4) Rollover fees. Effective January 1, 2007, if the recipient of a lump-sum distribution which qualifies to be rolled over requests that a rollover be made to more than one IRA or other qualified plan, IPERS may assess a $5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

11.6(5) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member’s designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member’s designated beneficiaries, heirs, assigns or other successors in interest.

11.6(6) Lump sum paper warrants processing fee. Effective April 1, 2012, and thereafter, IPERS shall charge $1 for paper warrants issued in payment of all nonrecurring lump sum distributions. If a nonrecurring lump sum distribution is followed by a supplemental lump sum distribution due to the reporting of additional covered wages, the $1 processing fee shall also be charged. This $1 processing fee shall not apply to a direct rollover described under Iowa Code section 97B.53B (however, processing fees may be charged for multiple rollover requests), lump sum mandatory account distributions required under Iowa Code section 97B.48(5), mandatory lump sum distributions required under Internal Revenue Code Section 401(9), or warrants reissued in forged endorsement or other fraudulent payment situations.

[ARC 0017C, IAB 2/22/12, effective 3/28/12]

495—11.7(97B) Overpayment of IPERS benefits.

11.7(1) Overpayments—general.

a. An “overpayment” means a payment of money by IPERS that results in a recipient receiving a higher payment than the recipient is entitled to under the provisions of Iowa Code chapter 97B.
b. A “recipient” is a person or beneficiary, heir, assign, or other successor in interest who receives an overpayment from an IPERS benefit and is liable to repay the amount(s) upon receipt of a written explanation and request for the amounts to be repaid.

c. If IPERS determines that the cost of recovering the amount of an overpayment is estimated to exceed the overpayment, the repayment may be deemed to be unrecoverable.

d. If the overpayment is equal to or less than $50 and cannot be recovered from other IPERS payments, IPERS may limit its recovery efforts to written requests for repayment and other nonjudicial remedies.

11.7(2) Overpayment made to a retired member. A retired member shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and a limited opportunity to repay the overpayment in full without interest. If a retired member repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. A retired member may repay an overpayment out of pocket or direct IPERS to recover the overpayment from future retirement benefit payments, or a combination of both. If the retired member cannot repay an overpayment in full, either out of pocket or from the next monthly installment of retirement benefits, or both, interest shall be charged. A retired member who cannot repay the full amount of the overpayment within 30 days after the date of the notice must enter into an agreement with IPERS to make monthly installment payments, or to have the overpayment offset against future monthly benefit payments or death benefits, if any, and authorize any unpaid balance as a first priority claim in the recipient’s estate.

11.7(3) Overpayment made to a person other than a retired member. A recipient other than a retired member, except a recipient listed in subrule 11.7(4), shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. If such a recipient repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. If such a recipient cannot repay an overpayment in full within 30 days after the date of the notice, interest shall be charged. If repayment in full cannot be made within 30 days, such a recipient shall make repayment arrangements subject to IPERS’ approval within 30 days of the written notice and request for repayment.

If the overpayment recipient cannot be located to receive notice of the overpayment at the recipient’s last-known address, IPERS shall, after trying to locate the person, consider the recipient to have waived entitlement to the quarters covered by the refund.

11.7(4) Overpayment made to a person who violates a bona fide severance period. If a recipient takes a refund and does not complete the required period of severance, the recipient shall receive a written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. The recipient shall have 30 days after the date of notice to repay the full amount of the refund without interest. If the repayment is not made within 30 days after the date of notice, the person shall receive no credit for the period of employment covered by the refund and shall be required to buy back the refund at its actuarial cost if the member later decides that the member wants service credit for any portion of the period of employment covered by the refund.

11.7(5) Interest charges.

a. Overpayment not fraudulent. If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.7(4), was not the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 5 percent, or the rate IPERS determines, on the outstanding balance, beginning 30 days after the date of notice of the overpayment(s) is provided by IPERS.

b. Overpayments in violation of Iowa Code section 97B.40 or 715A.8. If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.7(4), was the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 7.5 percent on the outstanding balance, beginning on the date of the overpayment(s).
c. Overpayments that result in a judgment. In addition to other remedies, IPERS may file a civil action to recover overpayments, and the interest rate may be set by the court.

11.7(6) Recovery of overpayment from a deceased recipient. If a recipient dies prior to the full repayment of an erroneous overpayment of benefits, IPERS shall be entitled to apply to the estate of the deceased to recover the remaining balance.

11.7(7) Offsets against amounts payable. IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections 8A.504 and 421.17.

11.7(8) Rights of appeal. A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS’ determination in writing to the CEO or CEO’s designee. The written request must explain the basis of the appeal and must be received by IPERS’ office within 30 days of overpayment notice pursuant to 495—Chapter 26.

11.7(9) Release of overpayment. IPERS may release a recipient from liability to repay an overpayment, in whole or in part, if IPERS determines that the receipt of overpayment is not the fault of the recipient, and that it would be contrary to equity and good conscience to collect the overpayment. No release of an individual recipient’s obligation to repay an overpayment shall stand as precedent for release of another recipient’s obligation to repay an overpayment.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code sections 97B.4, 97B.9A, 97B.15, 97B.25, 97B.38, 97B.40, 97B.45, 97B.47, 97B.48, 97B.48A, 97B.49A to 97B.49I, 97B.50, 97B.51, 97B.52, 97B.52A, 97B.53, and 97B.53B.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]
[Filed 8/10/07, Notice 7/4/07—published 8/29/07, effective 10/3/07]
[Filed 3/7/08, Notice 1/2/08—published 3/26/08, effective 4/30/08]
[Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed Emergency ARC 8929B, IAB 7/14/10, effective 6/21/10]
[Filed ARC 9068B (Notice ARC 8928B, IAB 7/14/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]
[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 12
CALCULATION OF MONTHLY RETIREMENT BENEFITS
[Prior to 11/24/04, see 581—Ch 21]

495—12.1(97B) General.

12.1(1) Formula benefit versus money purchase benefit. If a member is vested by years of service credit in IPERS, a monthly payment allowance will be paid in accordance with the formulas set forth in Iowa Code sections 97B.49A through 97B.49I, the applicable paragraphs of this chapter, and the option the member elects pursuant to Iowa Code section 97B.51(1). IPERS shall determine on the applicable forms which designated fractions of a member’s monthly retirement allowance payable to contingent annuitants shall be provided as options under Iowa Code section 97B.51(1). Any option elected by a member under Iowa Code section 97B.51(1) must comply with the requirements of the Internal Revenue Code that apply to governmental pension plans, including but not limited to Internal Revenue Code Section 401(a)(9). If a member is not vested by years of service credit in IPERS, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member’s age and option choice.

12.1(2) Reduction for early retirement.

a. Effective July 1, 1988, through December 31, 2000, a member’s benefit formula will be reduced by .25 percent for each month the member’s retirement precedes the normal retirement date, as defined in Iowa Code section 97B.45 excluding section 97B.45(4). The following are situations in which a member is considered to be taking early retirement:

(1) If a member has not attained the age of 65 in the member’s first month of entitlement and has less than 20 years of service; or

(2) If a member has not attained the age of 62 in the month of the member’s retirement and has 20 years of service.

b. Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member’s age on the last birthday and the member’s years of service equal or exceed 88, provided that the member is at least the age of 55.

c. Effective July 1, 1991, a member qualifying for early retirement due to disability under Iowa Code section 97B.50 shall not be subject to a reduction in benefits due to age.

d. If a member retires with at least 20 years of service but has not attained the age of 62, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 62. If a member retires with less than 20 years of service, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 65.

e. Effective January 1, 2001, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the earliest possible normal retirement date for that member based on the age and years of service at the member’s actual retirement.

f. For the portion of the member’s retirement allowance based on service through June 30, 2012, the early retirement reduction shall be calculated as provided in paragraphs 12.1(2)”a” through “e.” For the portion of the retirement allowance based on years of service beginning July 1, 2012, and later, the member’s early retirement reduction shall be one-half of one percent for each month that the early retirement precedes the date the member attains age 65.

12.1(3) Early retirement date. A member’s early retirement date shall be the first day of the month of the fifty-fifth birthday or any following month before the normal retirement date, provided that date is after the member’s termination date.

12.1(4) Members employed before January 1, 1976, and retiring after January 1, 1976. Members employed before January 1, 1976, and retiring after January 1, 1976, with four or more complete years of membership service shall be eligible to receive the larger of a monthly formula benefit equal to the member’s total covered wages multiplied by one-twelfth of one and fifty-seven hundredths percent,
multiplied by the percentage calculated in subrule 12.1(2), if applicable, or a benefit as calculated in subrule 12.1(6).

12.1(5) Members employed before January 1, 1976, who qualified for prior service credit. Members employed before January 1, 1976, who qualified for prior service credit shall be eligible to receive a monthly formula benefit of eight-tenths of one percent multiplied by each year of prior service multiplied by the monthly rate of the member’s total remuneration during the 12 consecutive months of prior service for which the total remuneration was the highest, disregarding any monthly rate amount in excess of $250, plus three-tenths of one percent of the monthly rate amount not in excess of $250 for each year in which accrued liability for benefit payments created by the abolished system is funded.

12.1(6) Benefit formulas for members retiring on or after July 1, 1994.

a. For each active member retiring on or after July 1, 1994, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 60 percent of the three-year average covered wage multiplied by a fraction of years of service.

b. For all active and inactive vested members, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member’s retirement. If the member takes early retirement, the benefit shall be adjusted as provided in subrule 12.1(2).

c. Effective July 1, 1996, through June 30, 1998, in addition to the 60 percent multiplier identified above, members who retire with years of service in excess of their “applicable years” shall have the percentage multiplier increased by 1 percent for each year in excess of their “applicable years,” not to exceed an increase of 5 percent. For regular members, “applicable years” means 30 years; for protection occupation members, “applicable years” means 25 years; for sheriffs, deputy sheriffs, and airport firefighters, “applicable years” means 22 years.

d. Effective July 1, 1998, sheriffs, deputy sheriffs, and airport firefighters who retire with years of service in excess of their applicable years shall have their percentage multiplier increased by 1.5 percent for each year in excess of their applicable years, not to exceed an increase of 12 percent.

e. Effective July 1, 2000, the “applicable years” and increases in the percentage multiplier for years in excess of the applicable years for protection occupation members shall be determined under Iowa Code section 97B.49B(1), as set forth in paragraph “f” below.

f. For special service members covered under Iowa Code section 97B.49B, the applicable percentage and applicable years for members retiring on or after July 1, 2000, shall be determined as follows:

(1) For each member retiring on or after July 1, 2000, and before July 1, 2001, 60 percent plus, if applicable, an additional .25 percent for each additional quarter of eligible service beyond 24 years of service (the “applicable years”), not to exceed 6 additional percentage points;

(2) For each member retiring on or after July 1, 2001, and before July 1, 2002, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 23 years of service (the “applicable years”), not to exceed a total of 7 additional percentage points;

(3) For each member retiring on or after July 1, 2002, and before July 1, 2003, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 22 years of service (the “applicable years”), not to exceed a total of 8 additional percentage points;

(4) For each member retiring on or after July 1, 2003, 60 percent plus, if applicable, an additional .375 percent for each additional quarter of eligible service beyond 22 years of service (the “applicable years”), not to exceed a total of 12 additional percentage points.

(5) Regular service does not count as “eligible service” in determining a special service member’s applicable percentage.

12.1(7) Average covered wages.

a. “Three-year average covered wage” means a member’s covered calendar year wages averaged for the highest three years of the member’s service. However, if a member’s final quarter of a year of employment does not occur at the end of a calendar year, IPERS may determine the wages for the third year by computing the final quarter or quarters of wages to complete the year. The computed year wages shall not exceed the maximum covered wage in effect for that calendar year. Furthermore, for members whose first month of entitlement is January of 1999 or later, the computed year shall not exceed
the member’s highest actual calendar year of covered wages by more than 3 percent. Effective July 1, 2007, a member’s high three-year average wage shall be the greater of (1) the member’s high three-year average covered wage based on covered wages reported through June 30, 2007; or (2) the member’s high three-year average covered wage after application of the antispiking control as described in paragraph “c” below.

For members whose first month of entitlement is January 1995 or later, a full third year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member’s final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The three-year average covered wage cannot exceed the highest maximum covered wages in effect during the member’s service.

If the three-year average covered wage of a member who retires on or after January 1, 1997, and before January 1, 2002, exceeds the limits set forth in paragraph “b” below, the longer period specified in paragraph “b” shall be substituted for the three-year averaging period described above. No quarters from the longer averaging period described in paragraph “b” shall be combined with the final quarter or quarters to complete the last year.

b. For the persons retiring during the period beginning January 1, 1997, and ending December 31, 2001, the three-year average covered wage shall be computed as follows:

1. For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds $48,000, the member’s covered wages averaged for the highest four years of the member’s service or $48,000, whichever is greater.

2. For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds $52,000, the member’s covered wages averaged for the highest five years of the member’s service or $52,000, whichever is greater.

3. For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds $55,000, the member’s covered wages averaged for the highest six years of the member’s service or $55,000, whichever is greater.

4. For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds $65,000, the member’s covered wages averaged for the highest six years of the member’s service or $65,000, whichever is greater. For the calendar year beginning January 1, 2001, the six-year wage averaging trigger shall be increased to $75,000.

5. Effective January 1, 2002, the computation of average covered wages shall be as provided in paragraph 12.1(7)”a.”

For purposes of paragraph 12.1(7)”b,” the highest years of the member’s service shall be determined using calendar years and may be determined using one computed year. The computed year shall be calculated in the manner and subject to the restrictions provided in paragraph 12.1(7)”a.”

c. Antispiking limit on the growth of a member’s high three-year average.

1. Selection of the control year shall give highest priority to calendar years of wages in which there are four quarters of service credit for wages on file not used in the high three-year average wage calculation. For example, if the member receives $20,000 of wages for a calendar year with four quarters of service credit for wages, and the member also has received $30,000 of wages for a calendar year with three quarters of service credit for wages, the control year selection process shall give preference to the calendar year with $20,000 of reported wages.

2. If there is a calendar year of covered wages outside the high three-year average wage calculation that has four quarters, but the covered wages for that year are less than the covered wages for the fourth highest calendar year of covered wages, and that fourth highest calendar year of covered wages does not have four quarters of service credit for wages, the control year will be the lowest of the high three calendar
years of wages with service credits for wages in all four quarters being used in the high three-year average wage calculation.

(3) “Service credit for wages” means service credit recorded for:
   1. Quarters in which the member receives covered wages from covered employment.
   2. Quarters in which the member is credited with covered wages due to a military leave.
   3. Quarters in which the member would have had covered wages but for the application of the IRS covered wage limitations.
   4. Quarters in which an employee of a nine-month institution receives service credit for a qualifying leave of absence under 495—subrule 7.1(2).
   5. Quarters in which a legislator, legislative employee, or elected official receives service credit for employment.

(4) If none of the calendar years of wages that fall outside of the high three-year average wage calculation have service credit for wages reported in all four quarters, the control year will then be the lowest of the high three calendar years of wages with service credit for wages in all four quarters being used in the high three-year average wage calculation.

(5) If none of the wage years used in the high three-year average wage calculation have service credits for wages reported in all four quarters, the control year will then revert to the highest calendar year of wages not included in the high three-year average wage calculation, regardless of whether there are fewer than four quarters with service credits for wages on file.

(6) For high three-year average wage calculations that utilize the computed year, the control year may be the calendar year from which the “average quarters” used in the computed year are drawn. However, the control year cannot be the computed year, as the computed year will never be a calendar year with service credit for wages in all four quarters.

d. Effective July 1, 2012, a nonvested member’s average covered wage shall be the member’s five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) “a.”

e. Effective July 1, 2012, for members vested as of June 30, 2012, the member’s average covered wage shall be the greater of the member’s three-year average covered wage calculated as provided under paragraphs 12.1(7) “a” through “c,” or the member’s five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) “a.”

495—12.2(97B) Initial benefit determination.

12.2(1) The initial monthly benefit for the retired member will be calculated utilizing the wages that have been reported as of the member’s retirement and subject to the requirements of subrule 12.1(7). When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to redetermine the member’s benefit amount. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the “computed year” shall not exceed the highest covered wage ceiling in effect during the member’s period of employment.

12.2(2) In cases where the member’s final quarter’s wages have been reported to IPERS prior to retirement, the original benefit will be calculated utilizing all available wages.

12.2(3) The Option 1 death benefit amount cannot exceed the member’s investment and cannot lower the member’s benefit below the minimum distribution required by federal law.

495—12.3(97B) Minimum benefits. Effective January 1, 1997, those members and beneficiaries of members who retired prior to July 1, 1990, and who upon retirement had years of service equal to or greater than 10, will receive a minimum benefit as follows.

12.3(1) The minimum benefit is $200 per month for those members with 10 years of service who retired under Option 2. The minimum shall increase by $10 per year or $2.50 per each additional quarter of service to a maximum benefit of $400 per month for members with 30 years of service. No increase is payable for years in excess of 30. The minimum benefit will be adjusted by a percentage that reflects option choices other than Option 2, and a percentage that reflects any applicable early retirement penalty.
12.3(2) In determining minimum benefits under this rule, IPERS shall use only the years of service the member had at first month of entitlement (FME). Reemployment periods and service purchases completed after FME shall not be used to determine eligibility.

12.3(3) The adjusted minimum benefit amount shall be determined using the option and early retirement adjustment factors set forth below.

a. The option adjustment factor is determined as follows:

Option 1
Option 2
Option 3
Option 4 (100%)
Option 4 (50%)
Option 4 (25%)
Option 5

b. The early retirement adjustment factor is determined as follows:

1. There is no early retirement adjustment if the member’s age at first month of entitlement equals or exceeds 65, or if the member’s age at first month of entitlement is at least 62 and the member had 30 or more years of service.

2. The early retirement adjustment for a member having 30 years of service whose first month of entitlement occurred before the member attained age 62 is .25 percent per month for each month the first month of entitlement precedes the member’s sixty-second birthday.

3. The early retirement adjustment for a member having less than 30 years of service whose first month of entitlement occurred before the member attained age 65 is .25 percent per month for each month the first month of entitlement precedes the member’s sixty-fifth birthday.

4. IPERS shall calculate the early retirement adjustment factor to be used in subrule 12.3(4) as follows:

\[
100\% - \text{early retirement adjustment percentage} = \text{early retirement adjustment factor}
\]

5. The early retirement adjustment shall not be applied to situations in which the member’s retirement was due to a disability that qualifies under Iowa Code section 97B.50 or 97B.50(2).

12.3(4) IPERS shall use the following formula to calculate the adjusted minimum benefit:

\[
\frac{\text{unadjusted minimum benefit}}{\text{option factor}} \times \frac{\text{early retirement adjustment factor}}{\text{adjusted minimum benefit}}
\]

12.3(5) IPERS shall compare the member’s current benefit to the adjusted benefit determined as provided in subrules 12.3(3) and 12.3(4). If the member’s current benefit is greater than or equal to the adjusted minimum benefit, no change shall be made. Otherwise, the member shall receive the adjusted minimum benefit.

12.3(6) Effective January 1, 1999, the monthly allowance of certain retired members and their beneficiaries, including those whose monthly allowance was increased by the operation of subrules 12.3(3) to 12.3(5), shall be increased. If the member retired from the system before July 1, 1986, the monthly allowance currently being received by the member or the member’s beneficiary shall be increased by 15 percent. If the member retired from the system after or after July 1, 1986, and before July 1, 1990, the monthly allowance currently being received by the member or the member’s beneficiary shall be increased by 7 percent.
495—12.4(97B) Hybrid formula for members with more than one type of service credit.

12.4(1) Eligibility. Effective July 1, 1996, members having both regular and special service (as defined in Iowa Code section 97B.1A(22)) shall receive the greater of the benefit amount calculated under this subrule or the benefit amount calculated under the applicable nonhybrid benefit formula.

a. Members who are vested by service as defined in Iowa Code section 97B.1A(25) “d” may utilize the hybrid formula.

b. The following classes of members are not eligible for the hybrid formula:

1. Members who have only regular service credit.
2. Members who have 22 years of special service credit.
3. Members who have 30 years of regular service.
4. Members who are not vested by service as defined in Iowa Code section 97B.1A(25) “d.”

12.4(2) Assumptions. IPERS shall utilize the following assumptions in calculating benefits under this rule.

a. The member’s average covered wage shall be determined in the same manner as it is determined for the nonhybrid formula.

b. Increases in the benefit formula under this rule shall be determined as provided under Iowa Code section 97B.49D. The percentage multiplier shall only be increased for total years of service over 30.

c. Years of service shall be utilized as follows:

1. Quarters which have two or more occupation class codes shall be credited as the class that has the highest reported wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.
2. Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.

12.4(3) Years of service fraction not to exceed one.

a. In no event shall a member’s years of service fraction under the hybrid formula exceed, in the aggregate, one.

b. If the years of service fraction does, in the aggregate, exceed one, the member’s quarters of service credit shall be reduced until the member’s years of service fraction equals, in the aggregate, one.

c. Service credit shall first be subtracted from the member’s regular service credit and, if necessary, shall next be subtracted from the member’s special service credit.

12.4(4) Age reduction. The portion of the member’s benefit calculated under this rule that is based on the member’s regular service shall be subject to a reduction for early retirement. In calculating the age reduction to be applied to the portion of the member’s benefit based on the member’s regular service, the system shall use all quarters of service credit, including both regular and special service quarters.

12.4(5) Calculations. A member’s benefit under the hybrid formula shall be the sum of the following:

a. The applicable percentage multiplier divided by 22 times the years of special service credit times the member’s high three-year average covered wage, plus

b. The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member’s high three-year average covered wage minus the applicable wage reduction (if any).

If the sum of the percentages obtained exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member’s applicable percentage multiplier in the order specified in paragraph 12.4(3) “c” of this subrule.

[ARC 0017C, IAB 2/22/12, effective 3/28/12]

495—12.5(97B) Money purchase benefits.

12.5(1) For each member who is vested prior to July 1, 2012, and is retiring prior to July 1, 2012, with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member’s
credit on December 31, 1966) to the annuity tables in use by the system according to the member’s age (or member’s and contingent annuitant’s ages, if applicable). If the member’s retirement occurs before January 1, 1995, IPERS’ revised 6.5 percent tables shall be used. If the member’s retirement occurs after December 31, 1994, IPERS’ 6.75 percent tables shall be used.

12.5(2) For each vested member for whom the present value of future benefits under Option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member’s age (or member’s and contingent annuitant’s ages, if applicable). If the member’s retirement occurs before January 1, 1995, IPERS’ revised 6.5 percent tables shall be used. If the member’s retirement occurs after December 31, 1994, IPERS’ 6.75 percent tables shall be used.

12.5(3) For calculations under subrule 12.5(1), the term “total reserve” means the total of the member’s investment and the employer’s investment as of the effective retirement date, plus any retirement dividends standing to the member’s credit as of December 31, 1966. For calculations under subrule 12.5(2), the term “member reserve” means the member’s total investment, excluding all other amounts standing to the member’s credit.

12.5(4) For calculations under subrule 12.5(1), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member’s total reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system’s tables to determine the monthly amount. For calculations under subrule 12.5(2), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system’s tables to determine the monthly amount.

12.5(5) For Option 1, the cost per $1,000 of death benefit shall be determined according to the system’s tables. That cost shall be subtracted from the Option 3 monthly amount to determine the Option 1 monthly benefit amount. The Option 1 death benefit amount shall be reduced as necessary so that the Option 1 monthly benefit amount is not less than one-half of the Option 2 monthly benefit amount.

12.5(6) If the member has prior service (service prior to July 4, 1953), the Option 2 benefit amount calculated under subrules 12.5(1) and 12.5(2) shall be calculated by determining the amount of the member’s Option 2 benefit based on the member’s prior service and the applicable plan formula, plus the amount of the member’s Option 2 benefit based on the member’s membership service as determined under this rule. The Option 2 benefit amount based on prior service shall be adjusted for early retirement.

12.5(7) For members retiring after June 30, 2012, the money purchase benefit calculated pursuant to this rule shall be provided to members who are not vested by service as defined in Iowa Code section 97B.1A(25) "d."

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 0662C, IAB 4/3/13, effective 5/8/13]

495—12.6(97B) Recalculation for a member aged 70. A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member’s retirement allowance can be recalculated to take into account service after the member’s original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member’s retirement allowance depends on the date of the member’s FME and the member’s termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member’s retirement formula for recalculation purposes shall be the formula in effect at the time of the member’s termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member’s FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS’ receipt of a member’s application for recalculation. It is the member’s responsibility to apply for the recalculation by completing and submitting the form specified by IPERS.
A member receiving a recalculation under this rule after June 30, 2012, will have the member’s average covered wage calculated as follows. IPERS will calculate the average high three covered wage as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member’s termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.  

[ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—12.7(97B) Level payment choice for special service members. A level payment choice is created effective July 1, 2002. IPERS shall implement the level payment choice by preparing factors to convert nonhybrid IPERS Options 1, 2, 3, 4, and 5 to the level payment choice. The new benefit feature applies solely to special service members, and any reference to members in this rule shall only apply to special service members.

12.7(1) Conversion rights window. A special service member who qualifies for a July 2002 or later first month of entitlement (FME) may elect to retire under the regular IPERS Option 1, 2, 3, 4 or 5, and later have the member’s option converted to the level payment choice. Retroactive adjustments in monthly amounts and death benefits, without interest, shall be provided.

In order to qualify for the conversion and retroactive payments, the member must request the level payment choice in writing no later than six months after the member’s first monthly payment. If the member is married, the member’s spouse must also consent to the requested change. Election of conversion to the level payment choice shall be irrevocable upon receipt of the first payment under the level payment choice.

A member who has retired under Iowa Code section 97B.49D or under IPERS Option 6 on or after July 1, 2002, and who wishes to receive benefits under this rule may revoke the member’s initial election and choose IPERS Option 1, 2, 3, 4, or 5 to be paid as a level payment choice. The conversion to the level payment choice under this subrule is mandatory and irrevocable.

The conversion rights granted in this subrule shall not apply to members whose FME is January 2003 and later. Those members must select the level payment choice at the time they submit an IPERS retirement application.

12.7(2) Member’s social security retirement amount. Calculations of a member’s level payment choice shall be based on the member’s social security retirement amount at age 62 as verified by Social Security Administration statements provided by the member. No adjustments shall be made if subsequent social security statements indicate an increase in the age 62 social security retirement amount. Verification of the social security benefits shall not precede the member’s first month of entitlement by more than 12 months.

12.7(3) Death benefit assumptions. In preparing level payment choice factors, IPERS shall assume:

a. For IPERS Options 1 and 2, death benefits under those options shall not be reduced as a result of a member’s attaining the age of 62 and having the member’s monthly allowance reduced under this rule.

b. For IPERS Options 4 and 5, IPERS shall assume that the contingent annuitant’s or beneficiary’s monthly payments and death benefits, if any, prior to the date the member attains, or would have attained, age 62 shall be based on the amount that was payable to the member for periods before the member attains, or would have attained, age 62. Beginning with the month after the month that the member attains, or would have attained, age 62, a contingent annuitant’s or beneficiary’s monthly payments and death benefits, except death benefits under IPERS Options 1 and 2, shall be based on the reduced amount that would have been payable to the member in the month after the month that the member attained age 62.

12.7(4) Favorable experience dividends. An eligible member’s or beneficiary’s favorable experience dividend, if any, shall be based on the member’s or beneficiary’s level payment choice monthly amount as of the preceding December 31.

12.7(5) Prohibitions. The following special service members shall be prohibited from receiving benefits under this rule:

a. Those who retire under Iowa Code section 97B.49D, 97B.50(2), or 97B.50A.
b. Those who retire under Option 6.
c. Those who request a level payment amount that reflects less than a full offset for the social security retirement amount at age 62.
d. Those reemployed in covered employment and subsequently retiring, for the period of reemployment. A member who has elected the level payment choice shall have retirement benefits calculated solely for the period of reemployment, except for vesting credit.

12.7(6) Limit on reductions. For a member who has substantial noncovered employment, the application of the level payment choice factors shall not reduce the monthly amount payable to a member at age 62 to less than 50 percent of the monthly amount that would have been payable under IPERS Option 2. Accordingly, payments before age 62 to such members shall be reduced in the same manner, with the corresponding adjustments made to death benefits.

12.7(7) Commencement of level payment option reduction. The monthly benefit of a member who selects the level payment option shall be reduced beginning with the month after the member reaches age 62.

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 1887C, IAB 2/18/15, effective 3/25/15]

495—12.8(97B) Reemployment of retired members.

12.8(1) Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. Effective July 1, 2002, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year for a person under the age of 65 before a reduction in federal social security retirement benefits is required, or earns $30,000, whichever is greater. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 12.8(2).

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

12.8(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.8(1) shall be reduced as follows:

a. A member’s monthly retirement allowance in the following calendar year shall be reduced by the excess benefit paid in the preceding year after the excess benefit payment amount has been determined.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year’s wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

c. The member’s overpayment shall be collected as follows:

(1) IPERS will reduce the member’s gross monthly benefit by 30 percent until the overpayment is repaid. If the 30 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) A member may elect to make repayments of the overpayment amounts out of pocket in lieu of having the member’s monthly benefit reduced. An out-of-pocket repayment may be made in one check or in installments. However, an election to make repayment in installments must be agreed to in writing between the member and IPERS.

(3) If a member dies and the full amount of overpayment determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member’s designated beneficiary or contingent annuitant. If the member has selected an option under which there
are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member’s estate.

(4) A member may elect in writing to have the member’s monthly retirement allowance suspended in the month in which the member’s remuneration exceeds the amount of remuneration permitted under this subrule in lieu of receiving a reduced retirement allowance under subparagraph (1). In order to become effective, the member’s written election must be delivered to IPERS in person, by regular mail, E-mail, facsimile or by private carrier. Oral elections shall not be accepted. The member’s election to suspend benefit payments in the month when the member’s remuneration exceeds the amount of reimbursement permitted under this subrule shall remain in effect for all subsequent calendar years until revoked by the member in writing. If the member’s written election is not received in time to avoid overpayment, the overpayment must be recovered, to the extent possible, from monthly amounts beginning in January of the next calendar year or under one of the alternate arrangements permitted under this rule. Effective July 1, 2007, remuneration shall include those amounts as described in 495—subrule 6.3(13).

12.8(3) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member’s retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member’s combined years of service exceed 30, a member’s initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least one full calendar month, elect to receive a refund of the employer and employee contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute “remuneration” for purposes of applying the reemployment earnings limit and determining reductions in the member’s monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

It is the member’s responsibility to apply for the recomputation or lump sum by completing and submitting the form specified by IPERS.

12.8(4) In recomputing a retired member’s monthly benefit, IPERS shall use the following assumptions.

a. The member cannot change the option or beneficiary with respect to the reemployment period.

b. If the member would only qualify for a money purchase benefit under rule 495—12.5(97B) based solely on the period of reemployment, then the money purchase formula shall be used to compute the additional benefit amount due to the reemployment.

c. If the member would qualify for a non-money purchase retirement allowance based solely on the period of reemployment, the benefit formula in effect as of the first month of entitlement (FME) for the reemployment period shall be used. If the FME is July 1998 or later, and the member has more than 30 years of service, including both original and reemployment service, the percentage multiplier for the reemployment period only will be at the applicable percentage (up to 65 percent) for the total years of service.

d. If a period of reemployment would increase the monthly benefit a member is entitled to receive, the member may elect between the increase and a refund of the employee and employer contributions without regard to reemployment FME.

e. If a member previously elected IPERS Option 1, is eligible for an increase in the Option 1 monthly benefits, and elects to receive the increase in the member’s monthly benefits, the member’s Option 1 death benefit shall also be increased if the investment is at least $1,000. The amount of the increase shall be at least the same percentage of the maximum death benefit permitted with respect to the reemployment as the percentage of the maximum death benefit elected at the member’s original
retirement. In determining the increase in Option 1 death benefits, IPERS shall round up to the nearest $1,000. For example, if a member’s investment for a period of reemployment is $1,900 and the member elected at the member’s original retirement to receive 50 percent of the Option 1 maximum death benefit, the death benefit attributable to the reemployment shall be $1,000 (50 percent times $1,900, rounded up to the nearest $1,000). Notwithstanding the foregoing, if the member’s investment for the period of reemployment is less than $1,000, the benefit formula for a member who originally elected new IPERS Option 1 shall be calculated under IPERS Option 3.

d. A retired reemployed member whose reemployment FME precedes July 1998 shall not be eligible to receive the employer contributions made available to retired reemployed members under Iowa Code section 97B.48A(4) effective July 1, 1998.

g. A retired reemployed member who requests a return of the employee and employer contributions made during a period of reemployment cannot repay the distribution and have the service credit for the period of reemployment restored.

h. If a retired reemployed member selected IPERS Option 5 at retirement, and after the period of reemployment requests an increase in the member’s monthly allowance, at death all remaining guaranteed payments with respect to both periods of employment shall be paid in a commuted lump sum.

i. If a retired reemployed member selected IPERS Option 2 (or old IPERS Option 1) at retirement, and after the period of reemployment requests an increase in the member’s monthly allowance, at death the member’s monthly payments following the increase shall be prorated between the member’s two annuities to determine the amount of the member’s remaining accumulated contributions that may be paid as a death benefit.

j. A retired reemployed member who has attained the age of 70 may take an actuarial equivalent (AE) payment. However, such a member must terminate covered employment for at least 30 days before taking an additional AE payment.

12.8(5) Mandatory distribution of active wages. If a retired reemployed member whose annual benefit would be increased by less than $600 does not request a second annuity or a lump sum payment of reemployment accruals by the end of the fourth quarter after the last quarter in which the member had covered wages, IPERS shall proceed to pay the member the applicable lump sum amount. The member shall have 60 days after the postmark date of the mandatory payment to return the payment and request a benefit increase.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—12.9(97B) Actuarial equivalent (AE) payments.

12.9(1) If a member aged 55 or older requests an estimate of benefits which results in a monthly benefit amount under Option 2 of less than $50, the member shall receive, under Iowa Code section 97B.48(1), a lump sum actuarial equivalent (AE) payment in lieu of a monthly benefit. Once the AE payment has been paid to the member, the member shall not be entitled to any further benefits based on the contributions included in the AE payment and the employment period represented thereby. If the member later returns to covered employment, any future benefits the member accrues shall be based solely on the new employment period. If an estimate of benefits based on the new employment period again results in any one of the options having a monthly benefit amount of less than $50, the member may again elect to receive an AE payment.

12.9(2) If a member, upon attaining the age of 70 or later, requests a retirement allowance without terminating employment and the member’s monthly benefit amount under Option 2 is less than $50, the member shall receive an AE payment based on the member’s employment up to, but not including, the quarter in which the application is filed. When the member subsequently terminates covered employment, any benefits due to the member will be based only on the period of employment not used in computing the AE paid when the member first applied for a retirement allowance. If an estimate of benefits based on the later period of employment again results in a monthly benefit amount under Option 2 of less than $50, the member shall receive another AE payment. However, a member who
elects to receive an AE payment upon or after attaining age 70 without terminating employment may not elect to receive additional AE payments unless the member terminates all covered employment for at least one full calendar month.

12.9(3) An AE payment under this rule shall be equal to the sum of the member’s and employer’s accumulated contributions and the retirement dividends standing to the member’s credit before December 31, 1966.

495—12.10(97B) Conforming rules for lump sum payments. Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.53B enacted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures affording payees of lump sum distributions with broader rollover rights as permitted under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.53B.

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(24), 97B.15, 97B.25, 97B.45, 97B.47 to 97B.48A, 97B.49A to 97B.49I, 97B.51, and 97B.53B.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed 12/1/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]
[Filed 8/10/07, Notice 7/4/07—published 8/29/07, effective 10/3/07]
[Filed 11/12/08, Notice 10/8/08—published 12/3/08, effective 1/7/09]
[Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 0662C (Notice ARC 0598C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
495—14.1(97B) Internal Revenue Code limitations. The death benefits payable under Iowa Code sections 97B.51 and 97B.52 shall not exceed the maximum amount possible under Internal Revenue Code Section 401(a)(9).

To ensure that the limit is not exceeded, a member’s combined lump sum death benefit under Iowa Code sections 97B.52(1) and 97B.52(2) shall not exceed 100 times the Option 2 amount that would have been payable to the member at the member’s earliest normal retirement age. If a beneficiary of a special service member is eligible for an in-the-line-of-duty death benefit, any reduction required under this rule shall be taken first from a death benefit payable under Iowa Code section 97B.52(1). The “100 times” limit shall apply to active and inactive members. The death benefits payable under this chapter for a period of reemployment for a retired reemployed member who dies during the period of reemployment shall also be subject to the limits described in this rule.

The maximum claims period for IPERS lump sum death benefits shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for a member who dies after the member’s required beginning date, unless the beneficiary is a spouse. The claims period for all cases in which the member’s death occurs during the same calendar year in which a claim must be filed under this rule shall end April 1 of the year following the year of the member’s death.

A member’s beneficiary or heir may file a claim for previously forfeited death benefits. Interest, if any, for periods prior to the date of the claim will only be credited through the quarter that the death benefit was required to be forfeited by law. Interest for periods following the quarter of forfeiture will accrue beginning with the quarter that the claim for reinstatement is received by IPERS. For death benefits required to be forfeited in order to satisfy Section 401(a)(9) of the federal Internal Revenue Code, in no event will the forfeiture date precede January 1, 1988. IPERS shall not be liable for any excise taxes imposed by the Internal Revenue Service on reinstated death benefits.

Effective January 14, 2004, all claims for a previously forfeited death benefit shall be processed under the procedure set forth at rule 495—14.13(97B).

The system recognizes the validity of same gender marriages executed in Iowa on or after April 27, 2009, if the domestic relations order or other assignment otherwise meets the system’s minimum requirements for such orders; the system shall modify the tax treatment of distributions under such orders as required by the federal laws governing such distributions. IPERS shall adopt such rules and procedures as are deemed necessary to fully implement the provisions of this rule. The Iowa Supreme Court decision recognizing same gender marriages in Iowa specifically states that this recognition does not extend to same gender marriages of other states. The system recognizes the validity of same gender marriages based on the U.S. Supreme Court’s decision in United States v. Windsor, 133 S.Ct. 2675 (2013) and the direction of Rev. Rul. 2013-17 and IRS Notice 2014-19. IPERS shall recognize the federal tax treatment of distributions as required by the sources listed in this paragraph.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15]

495—14.2(97B) Survival into first month of entitlement. When a member who has filed an application for retirement benefits and has survived into the first month of entitlement dies prior to the issuance of the first benefit check, IPERS will pay the death benefit allowed under the retirement option elected by the member in the application for retirement benefits.

495—14.3(97B) Designation of beneficiaries.

14.3(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member’s employer prior to the death of the member, even if that form was not forwarded to
IPERS prior to the member’s death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member’s contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member’s contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member’s estate or, if applicable, to the member’s heirs if no estate is probated.

14.3(2) Change of beneficiary. The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

14.3(3) Spousal signature. If the member designates someone other than a spouse as the sole primary beneficiary, the beneficiary designation form must contain a spousal signature, pursuant to Iowa Code section 97B.44. If a member’s spouse cannot be located, the spousal signature requirement may be waived upon receipt of the notarized form specified by IPERS.

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—14.4(97B) Applications for death benefits. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member’s death certificate, or if a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS’ own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access together with information establishing the claimant’s right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member’s account. If the claimant’s claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule 495—14.17(97B).

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16]

495—14.5(97B) Commuted lump sums.

14.5(1) Designated beneficiary is an estate, trust, church, charity, or similar organization. Where the designated beneficiary is an estate, trust, church, charity or similar organization, or is a person, such as a trustee, executor, or administrator who has been appointed to receive funds on behalf of such entities, payment of benefits shall be made in a lump sum only.

14.5(2) Multiple beneficiaries. Where multiple beneficiaries have been designated by the member, payment, including the payment of the remainder of a series of guaranteed annuity payments, shall be made in a lump sum only. The lump sum payment shall be paid to the multiple beneficiaries in equal shares.

14.5(3) Guaranteed payments. Where a member has selected Option 5 and dies before receiving all guaranteed payments, and the member’s designated beneficiary also dies before all guaranteed payments are made, any remaining guaranteed payments shall be paid in a commuted lump sum.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10]

495—14.6(97B) Payment of the death benefit when no designation of beneficiary or an invalid designation of beneficiary form is on file. When no designation of beneficiary or an invalid designation of beneficiary form is on file with IPERS, payment shall be made in one of the following ways.

14.6(1) Where the estate is open, payment shall be made to the administrator or executor where said executor or administrator shall be duly appointed and serving under Iowa Code chapter 633 or 635.
14.6(2) Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made to the surviving spouse. The following documents shall be presented as supporting evidence:
   a. Copy of the will, if any;
   b. Copy of any letters of appointment; and
   c. Copy of the court order closing the estate and discharging the executor or administrator.

14.6(3) Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits and there is no surviving spouse, payment will be made to the heirs-at-law as determined by the intestacy laws of the state of Iowa.

14.6(4) Where a trustee has been named as designated beneficiary and is not willing to accept the death benefit or otherwise serve as trustee, IPERS may apply but is not required to apply to the applicable district court for an order to distribute the funds to the clerk of court on behalf of the beneficiaries of the member’s trust. Upon the issuance of an order and the giving of such notice as the court prescribes, IPERS may deposit the death benefit with the clerk of court for distribution. IPERS shall be discharged from all liability upon deposit with the clerk of court.

495—14.7(97B) Waiver of beneficiary rights. A named beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would have been entitled. The waiver of the rights shall occur prior to the receipt of a payment from IPERS to the beneficiary. The waiver of rights shall be binding and will be executed on a form provided by IPERS. The waiver of rights may be general, in which case payment shall be divided equally among all remaining designated beneficiaries or, if there are none, to the member’s estate. The waiver of rights may also expressly be made in favor of one or more of the member’s designated beneficiaries or the member’s estate. If the waiver of rights operates in favor of the member’s estate and no estate is probated or claim made, or if the executor or administrator expressly waives payment to the estate, payment shall be paid to the member’s surviving spouse unless there is no surviving spouse or the surviving spouse has waived the surviving spouse’s rights. In that case, payment shall be made to the member’s heirs excluding any person who waived the right to payment. Any waiver filed by an executor, administrator, or other fiduciary must be accompanied by a release acceptable to IPERS indemnifying IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by an executor, administrator, or other fiduciary.

495—14.8(97B) Beneficiaries under the age of 18. Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is $25,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than $25,000.

495—14.9(97B) Simultaneous deaths. IPERS will apply the provisions of the Uniform Simultaneous Death Act, Iowa Code sections 633.523 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

495—14.10(97B) Felonious deaths. IPERS will apply the provisions of the Felonious Death Act, Iowa Code sections 633.535 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

495—14.11(97B) No interest on postretirement death benefits. Interest is only accrued on a member’s death benefit if the member dies before the member’s first month of entitlement (FME) or, for a retired reemployed member, before the member’s reemployment FME, and is only accrued with respect to the retired or retired reemployed member’s accumulated contributions account.

495—14.12(97B) Preretirement death benefits.
   14.12(1) Pre-January 1, 1999, deaths. Where the member dies prior to the first month of entitlement, the death benefit shall include the accumulated contributions of the member plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years
of membership service divided by the “applicable denominator,” as provided in Iowa Code section 97B.52(1). The amount payable shall not be less than the amount that would have been payable on the death of the member on June 30, 1984. The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS.


a. Definitions.

“Accrued benefit” means the monthly amount that would have been payable to the deceased member under IPERS Option 2 at the member’s earliest normal retirement age, based on the member’s covered wages and service credits at the date of death. If a deceased member’s wage record consists of a combination of regular and special service credits, the monthly amount that would have been payable to the deceased member under Option 2 at the member’s earliest normal retirement age shall be determined separately for regular and special service credits, and then combined.

“Beneficiary(ies)” shall, unless the context indicates otherwise, refer to both window period beneficiaries and post-window period beneficiaries.


“Nearest age” means a member’s or beneficiary’s age expressed in whole years, after rounding for partial years of age. Ages shall be rounded down to the nearest whole year if less than six complete months have passed following the month of the member’s or beneficiary’s last birthday, and shall be rounded up if six complete months or more have passed following the month of the member’s or beneficiary’s last birthday.

“Post-window period beneficiary” means a beneficiary of a member who dies before the member’s first month of entitlement and on or after January 1, 2001.

“Window period beneficiary” means a beneficiary of a member who dies before the member’s first month of entitlement during the period January 1, 1999, through December 31, 2000.

b. Any window period beneficiary or post-window period beneficiary may elect to receive the lump sum amount available under Iowa Code section 97B.52(1). Sole beneficiaries may elect, in lieu of the foregoing lump sum amount, to receive a single life annuity that is the actuarial equivalent of such lump sum amount.

A window period beneficiary must repay any prior preretirement death benefit received as follows:

1. Annuitize the difference between the previously paid lump sum amount and the new larger lump sum amount, if any; or

2. Annuitize the full amount of the largest of the lump sum amounts available under the revised statute, but must repay the full amount of the previously paid lump sum amount.

3. To the extent possible, repayment costs shall be recovered from retroactive monthly payments, if any, and the balance shall be offset against current and future monthly payments until the system is repaid in full.

c. A claim for a single life annuity under this subrule must be filed as follows:

1. A sole window period beneficiary must file a claim for a single life annuity within 12 months of the implementation date.

2. A sole post-window period beneficiary must file a claim for a single life annuity within 12 months of the member’s death.

3. A beneficiary who is a surviving spouse must file a claim for a single life annuity within the period specified in subparagraph (1) or (2), as applicable, or by the date that the member would have attained the age of 70½, whichever period is longer.

d. Elections to receive the lump sum amount or single life annuity available under Iowa Code section 97B.52(1) and this subrule shall be irrevocable once the first payment is made. Election shall be
irrevocable as of the date the first paycheck is issued, or would have been issued but for the fact that the payment is being offset against a prior preretirement death benefit payment.

e. No further benefits will be payable following the death of any beneficiary who qualifies and elects to receive the single life annuity provided under this subrule.

f. The provisions of this subrule shall not apply to members who die before January 1, 1999.

g. Procedures and assumptions to be used in calculating the lump sum present value of a member’s accrued benefit are as follows:

(1) IPERS shall calculate a member’s retirement benefit at earliest normal retirement age under IPERS Option 2, based on the member’s covered wages and service credits at the date of death, and the retirement benefit formula in effect in the month following the date of death.

(2) For purposes of determining the “member date of death annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the member’s nearest age at the member’s date of death.

(3) For purposes of determining the “member unreduced retirement annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the member’s nearest age at the member’s earliest normal retirement date. If a member had already attained the member’s earliest normal retirement date, IPERS shall assume that “age” means the member’s nearest age at the date of death.

h. Procedures and assumptions for converting the lump sum present value of a deceased member’s preretirement death benefit to a single life annuity are as follows:

(1) For purposes of determining the “age of beneficiary annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the beneficiary’s nearest age as of the beneficiary’s first month of entitlement.

(2) A beneficiary’s first month of entitlement is the month after the date of the member’s death.

(3) Effective for claims filed after June 30, 2004, no retroactive payments of the single life annuity shall be made under this subrule.

(4) Effective for claims filed after June 30, 2004, the beneficiary whose single life annuity is less than $600 per year shall be able to receive only the lump sum payment under this rule.

i. Eligibility for favorable experience dividend (FED) payments. Any sole beneficiary who is eligible for and elects to receive a single life annuity under this subrule shall also qualify for the dividend payments authorized under rule 495—15.2(97B), subject to the requirements of that rule.

j. Retired reemployed members and aged 70 members who retire without terminating employment. Preretirement death benefits for retired reemployed members and aged 70 members who retire without terminating employment shall be calculated as follows:

(1) For beneficiaries of such members who elect IPERS Option 4 or 6 at retirement, IPERS shall recompute (for retired reemployed members) or recalculate/recompute (for aged 70 members who retired without terminating employment) the member’s monthly benefits as though the member had elected to terminate employment as of the date of death, to have the member’s benefits adjusted for postretirement wages, and then lived into the recomputation or recalculation/recomputation (as applicable) first month of entitlement.

(2) The recomputation provided under subparagraph (1) shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member’s monthly benefit would have been increased by the period of reemployment, and is subject to the limitations of Iowa Code sections 97B.48A, 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. The recomputation/recomputations provided under subparagraph (1) shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member’s monthly benefit would have been increased by the period of employment after the initial retirement, and is subject to the limitations of Iowa Code sections 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. In all other cases, including cases where members previously received a lump sum payment under Iowa Code section 97B.48(1) in lieu of a monthly retirement allowance, preretirement death benefits under this subparagraph shall be the lump sum amount equal to the accumulated employee and accumulated employer contributions.
(3) Beneficiaries of members who had elected IPERS Option 4 or 6 may also elect to receive the accumulated employer and accumulated employee contributions described in subparagraph 14.12(2)"j,"(2), in lieu of the increased monthly annuity amount. Notwithstanding subparagraph (2) above, if the member elected IPERS Option 5 at retirement, the lump sum amount payable under this paragraph shall be the greater of the applicable commuted lump sum or the accumulated employee and accumulated employer contributions.

k. Inactive members with less than 16 quarters of service credit. For deaths occurring after June 30, 2004, and before July 1, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)"a," and shall only be payable in lump sum amounts for inactive members who have less than 16 quarters of service credit. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

l. Inactive members not vested by service. For deaths occurring after June 30, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)"a," and shall only be payable in lump sum amounts for inactive members who are not vested by service. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 2402C, IAB 2/17/16, effective 3/23/16]

495—14.13(97B) Payment procedures for heirs that cannot be located.

14.13(1) Order of priority. If a death benefit cannot be paid because heirs cannot be located, IPERS will pay a death benefit to the member’s heirs according to the following procedure.

a. Children. If there is no surviving spouse, but at least one child survives, the death benefit shall be divided equally among the member’s children. If there are living and deceased children, the shares that would have been payable to deceased children shall be payable in equal shares to the surviving children of each such deceased child.

b. Grandchildren. If neither the spouse nor children survive, but at least one grandchild survives, the death benefit shall be divided equally among the member’s grandchildren. If there are living and deceased grandchildren, the shares that would have been payable to any deceased grandchild shall be payable in equal shares to the surviving children of such deceased grandchild.

c. Parent(s). If there is no surviving spouse, child, or grandchild, but at least one parent survives, the death benefit shall be divided equally between the member’s parents.

d. Siblings. If there is no surviving spouse, child, grandchild, or parent, but at least one sibling survives, the death benefit shall be divided equally among the member’s siblings. If there are living and deceased siblings, the shares that would have been payable to any deceased sibling shall be payable in equal shares to the surviving children of such deceased siblings.

e. Nephew(s) and niece(s). If no one from the above-mentioned groups survives, but there is at least one surviving niece or nephew, the death benefit shall be divided equally among the member’s surviving nieces and nephews.

f. Estate. If someone other than a member of one of the groups listed above claims the member’s death benefit, an estate must be opened and the death benefit shall only be payable to the administrator of that estate.

14.13(2) Procedures for initial distribution for identified heirs. IPERS shall distribute the death benefit to the heirs making a claim for such benefit in descending order listed in 14.13(1)"a" to "f." A claimant shall be required to submit an affidavit suitable to IPERS that verifies the claimant’s share or, to the best of the claimant’s knowledge, that there are no other surviving persons from the claimant’s group and that there are no living persons in any lower-numbered group that would have a higher priority claim to the death benefit. IPERS shall have no responsibility to determine or search out the member’s heirs at law, nor shall IPERS incur any liability for relying on a claimant’s affidavits in paying the death benefit hereunder.

14.13(3) Procedures for final distribution to heirs who have filed claims. If a claimant has identified other persons in the claimant’s group who would be entitled to a share of the member’s death benefit, but such persons have not filed a claim within five years after the member’s death, or by the date required under IRC Section 401(a)(9) if earlier, the remainder of the member’s death benefit shall be paid in
pro-rata shares to the claimants who were previously paid a share of the death benefit. In order to comply with the applicable IRS limitations, the final payments under this subrule shall be made by December 31 of the fifth year that begins after the member’s date of death, or by December 31 of the year that distribution is required under IRC Section 401(a)(9), if earlier. The sole recourse of any claimant who is a member of a group receiving payments hereunder of any lower-numbered group that should have received all of such payments shall be against the claimants of the group that received death benefit payments.

495—14.14(97B) Procedures for deaths of certain voluntary emergency services personnel occurring in the line of duty. Effective July 1, 2006, for a member who dies while performing the functions of a voluntary emergency services provider as described under Iowa Code section 85.61 or 147A.1, benefits for deaths occurring in the line of duty shall be paid pursuant to Iowa Code section 100B.31.

495—14.15(97B) Rollovers by nonspouse beneficiaries. Effective January 1, 2007, nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries’ death benefit payments to traditional IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries’ responsibility to determine that the recipient IRAs meet the structural and operational requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRA accounts that fail to meet such requirements.

Effective January 1, 2008, IPERS will also allow rollovers under this rule to Roth IRA accounts established in accordance with the structural and operational requirements of Section 829 and Notice 2007-7.

495—14.16(97B) Required minimum distribution (RMD) basic calculation.

14.16(1) The RMD for a member who retired under an option with a lump sum death benefit and died after the member’s required beginning date (RBD) is calculated as follows:

a. Step 1. Determine the number of payments remaining for the calendar year in which the member died. The current month’s payment is not used in this calculation.

b. Step 2. Multiply the number of remaining payments determined in Step 1 by the gross amount of the member’s last monthly payment to get the RMD amount. If the lump sum death benefit is less than the RMD, then the RMD is the lump sum death benefit amount.

c. Step 3. Determine the total non-RMD amount by subtracting the RMD as determined in Step 2 from the lump sum death benefit.

d. The eligible rollover amount is the total non-RMD amount as determined in Step 3.

14.16(2) In order to allocate nontaxable amounts between RMD and non-RMD, the calculation is performed as follows:

a. Nontaxable amounts are allocated first to the RMD portion of the lump sum death benefit.

b. If the nontaxable amounts are greater than the RMD amount, the remaining nontaxable amounts are allocated to the non-RMD portion of the lump sum amount.

c. If the nontaxable amounts are less than the RMD amount, the remaining portion of the RMD amount is composed of taxable amounts.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10]

495—14.17(97B) Beneficiary revocation pursuant to Iowa Code section 598.20B, dissolution of marriage. IPERS is not liable for the payment of death benefits to a beneficiary pursuant to a beneficiary designation that has been revoked or reinstated by a divorce, annulment, or remarriage before IPERS receives the written notice set forth in subrule 14.17(1). Furthermore, IPERS shall only be liable for payments made after receipt of such written notice if the written notice is received at least ten calendar days prior to the payment.

14.17(1) Form of notice. The written notice shall include the following information:
a. The name of the deceased member,
b. The name of the person(s) whose entitlement to IPERS death benefits is being challenged,
c. The name, address, and telephone number of the person(s) asserting an interest,
d. A statement that the decedent’s divorce, annulment, or remarriage revoked the entitlement of the person(s) whose status is being challenged to the IPERS death benefits in question, and
e. A copy of the divorce decree upon which the claim is based.
In addition to the above information, if the person whose entitlement is being challenged is not the former spouse, the written notice must indicate that the person was related to the former spouse, but not the member, by blood, adoption or affinity, and state the nature of the relationship.

14.17(2) Delivery of notice. Written notice under this rule must be addressed to IPERS General Counsel and mailed to IPERS by registered mail or served upon IPERS in the same manner as a summons in a civil action.

14.17(3) Administration. Upon receipt of written notice that meets the requirements of subrules 14.17(1) and 14.17(2):

a. IPERS shall review the deceased member’s account and determine if there are moneys left to be distributed from the account.
b. IPERS shall pay the amounts owed, if any, to the probate court having jurisdiction over the decedent’s estate, if the deceased member has an open estate.
c. IPERS shall pay the amounts owed, if any, to the probate court that had or would have had jurisdiction over the decedent’s estate, if the deceased member’s estate is closed or an estate was not opened.
d. As IPERS makes applicable payments, a copy of the written notice received by IPERS shall be filed with the probate court.

If the probate court charges a filing fee for the deposit of amounts payable hereunder, IPERS shall deduct such filing fees and other court costs from the amounts payable prior to transfer. The probate court shall hold the funds and, upon its determination, shall order disbursement or transfer in accordance with the determination. Additional filing fees and court costs, if any, shall be charged upon disbursement either to the recipient or against the funds on deposit with the probate court, in the discretion of the court.

14.17(4) Release of claims. Payments made to a probate court under this rule shall discharge IPERS from all claims by all persons for the value of amounts paid the court.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10]


These rules are intended to implement Iowa Code sections 97B.1A(8), 97B.1A(18), 97B.1A(19), 97B.34, 97B.34A, 97B.44, 97B.52 and 97B.53B and 2000 Iowa Acts, chapter 1077, section 75.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed 11/3/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]
[Filed emergency 6/25/08—published 7/16/08, effective 6/25/08]
[Filed 8/8/08, Notice 7/2/08—published 8/27/08, effective 10/1/08]
[Filed 8/20/08, Notice 7/16/08—published 9/10/08, effective 10/15/08]
[Filed ARC 8601B (Notice ARC 8477B, IAB 1/13/10), IAB 3/10/10, effective 4/14/10]
[Filed Emergency ARC 8929B, IAB 7/14/10, effective 6/21/10]
[Filed ARC 9068B (Notice ARC 8928B, IAB 7/14/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 0017C (Notice ARC 9951B, IAB 12/28/11), IAB 2/22/12, effective 3/28/12]
[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 1887C (Notice ARC 1800C, IAB 12/24/14), IAB 2/18/15, effective 3/25/15]
[Filed ARC 2402C (Notice ARC 2331C, IAB 12/23/15), IAB 2/17/16, effective 3/23/16]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 19
DECLARATORY ORDERS

495—19.1(17A) Petition for declaratory order. Any person may file a petition with the agency for a declaratory order regarding the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency. Such petitions shall be addressed to the CEO or CEO’s designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. A petition is deemed filed when it is received by the agency.

The agency shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM (IPERS)

<table>
<thead>
<tr>
<th>Petition by (Name of Petitioner)</th>
<th>PETITION FOR</th>
</tr>
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<tbody>
<tr>
<td>for a Declaratory Order on</td>
<td>DECLARATORY</td>
</tr>
<tr>
<td>(Cite provisions of law involved)</td>
<td>ORDER</td>
</tr>
</tbody>
</table>

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting pursuant to 19.7(17A).

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—19.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the agency shall give notice of the petition to all persons not served by the petitioner pursuant to rule 19.7(17A) to whom notice is required by any provision of law. Notice may also be given to any other person.

495—19.3(17A) Intervention.

19.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

19.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the agency.

19.3(3) A petition for intervention shall be filed with the CEO or CEO’s designee at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Such a petition is deemed filed when it is received by IPERS.
The agency will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

**IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM (IPERS)**

| Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law in original petition). | PETITION FOR INTERVENTION |

The petition for intervention must provide the following information:
1. Facts supporting the intervenor’s standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented in the original petition for declaratory order, and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

**495—19.4(17A) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The agency may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

**495—19.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the CEO or CEO’s designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

**495—19.6(17A) Service and filing of petitions and other papers.**

19.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

19.6(2) *When filing required.* Petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the CEO or CEO’s designee, IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the agency.

19.6(3) *Method of service.* Method of service, time of filing, and proof of mailing shall be as provided by uniform rule on contested cases 495—26.13(17A).

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

**495—19.7(17A) Informal meeting.** The agency may schedule a brief and informal meeting between the original petitioner, all intervenors, and the agency, a member of the agency, or a member of the staff of the agency to discuss the questions raised. The agency may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the agency by any person.
495—19.8(17A) Action on petition.
19.8(1) Within 30 days after receipt of a petition for a declaratory order, the CEO or CEO’s designee shall take action on the petition pursuant to Iowa Code section 17A.9(5).

19.8(2) The date of issuance of an order or of a refusal to issue an order shall be the date of mailing of a decision or order, or the date of delivery if service is by other means, unless another date is specified in the order.
[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—19.9(17A) Refusal to issue order.
19.9(1) The agency shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1). The agency may refuse to issue a declaratory order on some or all questions raised for the following reasons:
   a. The petition does not substantially comply with the required form.
   b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the agency to issue an order.
   c. The agency does not have jurisdiction over the questions presented in the petition.
   d. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
   e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
   f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
   g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
   h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
   i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
   j. The petitioner requests the agency to determine whether any of the conditions under Iowa Code section 17A.19(8), incorporated by this reference, have been met.
   k. The agency will not issue declaratory orders on the following:
      (1) The present value of IPERS retirement monthly benefits;
      (2) Actuarial assumptions used or proposed to be used by the agency;
      (3) The impact of proposed legislation;
      (4) Issues which require the disclosure of confidential information; and
      (5) Any matter under appeal or in litigation.
19.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.
19.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.
[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—19.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance; the name of petitioner and all intervenors; the specific statutes, rules, policies, decisions, or orders involved; the particular facts upon which it is based; and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

495—19.11(17A) Copies of orders. Copies of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.
495—19.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the agency, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the agency. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapters 17A and 97B.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]
[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 20
RECOGNITION OF AGENTS
[Prior to 11/24/04, see 581—Ch 21]

495—20.1(97B) Recognition of agents.

20.1(1) Recognition of agents in general. When a member or beneficiary desires to be represented by an agent before the system, the member or beneficiary shall designate in writing, using a power of attorney form or other acceptable legal form, the name of a representative and the nature of the business the representative is authorized to transact. Such designation on the part of the member or beneficiary shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the member’s or beneficiary’s agent.

20.1(2) Payment to members or beneficiaries with a recognized agent. When it appears that the interest of a member or beneficiary would be served, IPERS may recognize an agent to represent the member or beneficiary in the transaction of the affairs with IPERS. Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, conservatorship, other similar court order which appoints an agent to act upon behalf of a member or beneficiary, or social security representative payee documents by the individual so designated. Such persons have all the rights and obligations of the member or beneficiary. Notwithstanding the foregoing, none of the foregoing representatives shall have the right to name the representative as the member’s or beneficiary’s beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member or beneficiary.

20.1(3) Revocation of power of attorney. Any person serving as an agent by power of attorney under this rule can have the agency relationship rescinded by the member or beneficiary by notifying IPERS verbally or in writing.

20.1(4) Revocation of other representative agents. Any person serving as a representative agent under a guardianship, conservatorship, or social security representative payee may not be revoked unless by court order or notice from the social security administration in writing.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—20.2(97B) Agreements by agents. An individual serving in the capacity of an agent establishes an agreement with IPERS to transact all business with IPERS in such a manner that the interests of the member or beneficiary are best served. Payments made to the agent on behalf of the member or beneficiary will be used for the direct benefit of the member or beneficiary. Failure to adhere to the agreement will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS, the member, or the beneficiary.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code sections 97B.34 and 97B.37.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 31
AGENCY PROCEDURE FOR RULE MAKING

495—31.1(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the Iowa Public Employees’ Retirement System are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

495—31.2(17A, ExecOrd80) Advice on possible rules before notice of proposed rule adoption.

31.2(1) IPERS shall designate the benefits advisory committee (BAC), and investment board as applicable, as the stakeholder rule-making group, pursuant to the rules for creation, public notice, procedures, public input, and results as outlined in Executive Order Number 80. The stakeholder group shall review and comment on any proposed rules changes before the rules are considered to be pending, as defined in subrule 31.3(2).

31.2(2) In addition to seeking information by other methods, the agency may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1) “a,” solicits comments from the public by any reasonable means on a subject matter of possible rule making by the agency. Notwithstanding the foregoing, except as otherwise provided by law, the agency may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—31.3(17A) Public rule-making docket.

31.3(1) Docket maintained. The agency shall maintain a current public rule-making docket.

31.3(2) Pending rule-making proceedings. The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action pursuant to Iowa Code section 17A.4(1) “a,” to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the effective date of the rule. For each rule-making proceeding, the docket shall indicate:

a. The subject matter of the proposed rule;
b. A citation to all published notices relating to the proceeding;
c. Where written submissions on the proposed rule may be inspected;
d. The time during which written submissions may be made;
e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;
f. Whether a written request for the issuance of a regulatory analysis, or a concise statement of reasons, has been filed; whether such an analysis or statement or a fiscal impact statement has been issued; and where any such written request, analysis, or statement may be inspected;
g. The current status of the proposed rule and any agency determinations with respect thereto;
h. Any known timetable for agency decisions or other action in the proceeding;
i. The date of the rule’s adoption;
j. The dates of the rule’s filing, indexing, and publication;
k. The date on which the rule will become effective; and
l. Where the rule-making record may be inspected.

31.3(3) Rule-making Internet site. The agency will maintain a page on its Internet site, and its rules filings will appear on the state of Iowa’s Iowa administrative rules Internet site, pursuant to the requirements of Iowa Code section 17A.6A.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—31.4(17A) Notice of proposed rule making.

31.4(1) Contents.

a. At least 35 days before the adoption of a rule, the agency shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:
(1) A brief explanation of the purpose of and the reason for the proposed rule;
(2) A brief explanation of the principal reasons for the agency’s failure to provide for a waiver in a rule and the reasons for overruling considerations urged against the rule;
(3) The specific legal authority for the proposed rule;
(4) Except to the extent impracticable, the text of the proposed rule;
(5) Where, when, and how persons may present their views on the proposed rule;
(6) Where, when, and how persons may request an oral proceeding on the proposed rule if the notice does not already provide for one; and
(7) A fiscal impact statement as described under 495—31.7(17A,25B).

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the agency shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the agency for the resolution of each of those issues.

b. If requested by an interested person, the agency shall issue a concise statement of the principal reasons for and against the rule adopted, pursuant to Iowa Code section 17A.4(2).

31.4(2) Incorporation by reference. A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to the incorporation by reference of other materials in an adopted rule that are contained in subrule 31.12(2).

31.4(3) Copies of notices. The agency shall submit a copy of the notice to the chairpersons and ranking members of the appropriate standing committees of the general assembly as required by Iowa Code section 17A.4(1) “a.”

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—31.5(17A) Public participation.

31.5(1) Written comments. For at least 20 days after publication of a Notice of Intended Action, persons may submit arguments, data, and views, in writing, on the subject matter of the published notice. Such written submissions should identify each proposed rule to which they relate and should be submitted to the person and address designated in the Notice of Intended Action.

31.5(2) Oral proceedings. The agency may, at any time, schedule an oral proceeding on a Notice of Intended Action. The agency shall schedule an oral proceeding if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the agency by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons. That request must also contain the following additional information:

a. A request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.

b. A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.

c. A request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing that request.

31.5(3) Conduct of oral proceedings.

a. Applicability. This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1) “b.” or this chapter.

b. Scheduling and notice. An oral proceeding on a Notice of Intended Action may be held at IPERS, 7401 Register Drive, Des Moines, Iowa, and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the applicable Notice of Intended Action by ARC number and citation to the Iowa Administrative Bulletin.
c. **Presiding officer.** The agency, through an employee of the agency, who is familiar with the substance of the rules proposed in the Notice of Intended Action, shall preside at the oral proceeding. The presiding officer shall record the oral proceeding and archive the recorded record at IPERS.

d. **Conduct of proceeding.** At an oral proceeding on a Notice of Intended Action, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the subject matter of the rules proposed in the Notice of Intended Action. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the agency at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by electronic means.

   1. At the beginning of an oral proceeding, the presiding officer shall give a brief synopsis of the subject matter of the rules proposed in the Notice of Intended Action, a statement of the statutory authority for each proposed rule, and the reasons for the agency’s decision to propose each rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of an oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

   2. Persons making oral presentations are encouraged to avoid restating matters which have already been submitted in writing.

   3. To facilitate the exchange of information the presiding officer may, where time permits, open the floor to questions or general discussion.

   4. The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of a meeting.

   5. Physical and documentary submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the agency.

   6. An oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

   7. Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

   8. The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

31.5(4) Additional information. In addition to receiving written comments and oral presentations according to the provisions of this rule, the agency may obtain information concerning its proposed rules through any other lawful means deemed appropriate under the circumstances.

31.5(5) Accessibility. The agency shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the person designated in the Notice of Intended Action at the telephone number or address provided in the Notice of Intended Action in advance of the proceeding to arrange access or other needed services.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]
b. Its address;
c. The name of a person authorized to transact business for the applicant;
d. A description of the applicant’s business or organization. An organization representing 25 or more persons who qualify as a small business shall indicate that fact; and
e. Whether the registrant desires copies of Notices of Intended Action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The agency may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The agency may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within 30 days after the letter is sent.

31.6(3) Time of mailing. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the agency shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the Notice of Intended Action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business adopted in reliance upon Iowa Code section 17A.4A(2), the agency shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the Iowa Administrative Bulletin.

31.6(4) Qualified requesters for regulatory analysis—economic impact. The agency shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2)“a” after a proper request from:

a. The administrative rules coordinator;
b. The administrative rules review committee.

31.6(5) Qualified requesters for regulatory analysis—business impact. The agency shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2)“b” after a proper request from:

a. The administrative rules review committee;
b. The administrative rules coordinator;
c. At least 25 or more persons who sign the request provided that each represents a different small business;
d. An organization representing at least 25 small businesses. That organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

31.6(6) Time period for analysis. Upon receipt of a timely request for a regulatory analysis, the agency shall adhere to the time lines described in Iowa Code section 17A.4A(4).

31.6(7) Contents of request. A request for a regulatory analysis is made when it is mailed or delivered to the agency. The request shall be in writing and satisfy the requirements of Iowa Code section 17A.4A(1).

31.6(8) Contents of concise summary. The contents of the concise summary shall conform to the requirements of Iowa Code sections 17A.4A(2), 17A.4A(5) and 17A.4A(6).

31.6(9) Publication of a concise summary. The agency shall make available, to the maximum extent feasible, copies of the published summary in conformance with Iowa Code section 17A.4A(5).

31.6(10) Regulatory analysis contents—rules review committee or rules coordinator. When a regulatory analysis is issued in response to a written request from the administrative rules review committee, or the administrative rules coordinator, the regulatory analysis shall conform to the requirements of Iowa Code section 17A.4A(2)“a,” unless a written request expressly waives one or more of the items listed in the section.

31.6(11) Regulatory analysis contents—substantial impact on small business. When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small
business or by an organization representing at least 25 small businesses, the regulatory analysis shall
conform to the requirements of Iowa Code section 17A.4A(2) “b.”

[ARC 2981C, IAB 3/15/17, effective 4/19/17]


31.7(1) A proposed rule that mandates additional combined expenditures exceeding $100,000 or
combined expenditures of at least $500,000 within five years by all affected political subdivisions,
the agency itself, or agencies and entities which contract with political subdivisions to provide services shall
be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact
statement shall satisfy the requirements of Iowa Code section 25B.6.

31.7(2) If the agency determines at the time it adopts a rule that the fiscal impact statement upon
which the rule is based contains errors, the agency shall, at the same time, issue a corrected fiscal impact
statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

495—31.8(17A) Time and manner of rule adoption.

31.8(1) Time of adoption. The agency shall not adopt a rule until the period for making written
submissions and oral presentations has expired. Within 180 days after the later of the publication of the
Notice of Intended Action, or the end of oral proceedings thereon, the agency shall adopt a rule pursuant
to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the
Iowa Administrative Bulletin.

31.8(2) Consideration of public comment. Before the adoption of a rule, the agency shall consider
fully all of the written submissions and oral submissions received in that rule-making proceeding or any
memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement
issued in that rule-making proceeding.

31.8(3) Reliance on agency expertise. Except as otherwise provided by law, the agency may use its
own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

495—31.9(17A) Variance between adopted rule and published notice of proposed rule adoption.

31.9(1) The agency shall not adopt a rule that differs from the rule proposed in a Notice of Intended
Action on which the rule is based unless:

a. The differences are within the scope of the subject matter announced in the Notice of Intended
Action and are in character with the issues raised in that notice; and

b. The differences are a logical outgrowth of the contents of that Notice of Intended Action and
the comments submitted in response thereto; and

c. The Notice of Intended Action provided fair warning that the outcome of that rule-making
proceeding could be the rule in question.

31.9(2) In determining whether a Notice of Intended Action provided fair warning that the outcome
of that rule-making proceeding could be the rule in question, the agency shall consider the following
factors:

a. The extent to which persons who will be affected should have understood that the rule making
on which it is based could affect their interests;

b. The extent to which the subject matter or the issues determined by the adopted rule are different
from the subject matter or issues contained in the Notice of Intended Action; and

c. The extent to which the effects of the adopted rule differ from the effects of the proposed rule
contained in the Notice of Intended Action.

31.9(3) The agency shall commence a rule-making proceeding within 60 days of its receipt of
a petition for rule making seeking the amendment or repeal of an adopted rule that differs from the
proposed rule contained in the Notice of Intended Action upon which the adopted rule is based, unless
the agency finds that the differences are so insubstantial as to make such a rule-making proceeding
wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to
petitioner, the administrative rules coordinator, and the administrative rules review committee, within
three days of its issuance.
31.9(4) Concurrent rule-making proceedings. Nothing in this rule sets aside the discretion of the agency to initiate, concurrently, several different rule-making proceedings on the same subject each with its appropriate Notice of Intended Action.

495—31.10(17A) Exemptions from public rule-making procedures.

31.10(1) Omission of notice and comment. To the extent the agency for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule or set of rules, the agency may adopt that rule or set of rules without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to adoption. The agency shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

31.10(2) Categories exempt. The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each category:

a. Rules that implement nondiscretionary federal law;
b. Rules that implement nondiscretionary state law;
c. Rules implementing contribution rates recommended by IPERS;
d. Minor changes such as grammar, punctuation, spelling and other scrivener’s errors that are otherwise nonsubstantive and serve only to make a correction; and

e. Any other categories added to this list by rule making where such an exemption is justified.

31.10(3) Public proceedings on rules adopted without them. The agency may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule adopted in reliance upon subrule 31.10(1). Upon written petition by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the agency shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 31.10(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. A rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subrule, the agency may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 31.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

495—31.11(17A) Concise statement of reasons.

31.11(1) General. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the agency shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the person designated in the Notice of Intended Action at the address designated in the Notice of Intended Action. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

31.11(2) Contents. The concise statement of reasons shall contain:

a. The reasons for adopting the particular rule;
b. An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any such change; and

c. The principal reasons urged in the rule-making proceeding for and against the rule, and the agency’s reasons for overruling the arguments made against the rule.

31.11(3) Time of issuance. After a proper request, the agency shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.
495—31.12(17A) Contents, style, and form of rules.

31.12(1) Contents. Each rule making by the agency shall contain the text of each rule and, in addition:
   a. The date the agency adopted the rule;
   b. A brief explanation of the principal reasons for the rule-making action if such reasons are required by Iowa Code section 17A.4A(1) "b," or the agency in its discretion decides to include such reasons;
   c. A reference to all rules repealed, amended, or suspended by the rule;
   d. A reference to the specific statutory or other authority authorizing adoption of the rule;
   e. Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule;
   f. Effective July 1, 1999, if the agency has not included the subject matter of the proposed rule in a separate rule listing categories of rules for which no waiver provision will be included, a brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waivers or special exceptions provided in the rule if such reasons are required by Iowa Code section 17A.4A(1) "b," or the agency in its discretion decides to include such reasons; and
   g. The effective date of the rule.

31.12(2) Incorporation by reference. The agency may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated material in full, all or any part of a code, standard, rule, or other matter if the agency finds that the incorporation of its text in the agency proposed or adopted rule would be undulycumbersome, expensive, or otherwise inexpedient. The reference in the agency proposed or adopted rule shall fully and precisely identify the incorporated material by location, title, citation, date, and edition, if any; and may state that the proposed or adopted rule includes any later amendments or editions of the proposed material that are binding on the agency by state or federal law or regulation. The agency may incorporate such material by reference in a proposed or adopted rule if copies are readily available to the public at the agency’s headquarters. The agency shall retain permanently a copy of materials that are incorporated by reference in a rule. Copies of incorporated material may be obtained at cost from the agency.

31.12(3) References to materials not published in full. When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be undulycumbersome, expensive, or otherwise inexpedient, the agency shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the agency. The agency will provide a copy of that full text at actual cost upon request and shall ensure that copies of the full text are available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the agency shall provide a statement explaining why publication of the full text would be undulycumbersome, expensive, or otherwise inexpedient.

31.12(4) Style and form. In preparing its rules, the agency shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

495—31.13(17A) Agency rule-making record.

31.13(1) Requirement. The agency shall maintain for each separate rule making an index listing and summarizing the rules being proposed, adopted, amended or repealed. In addition, the agency shall maintain a rule-making record as described in subrule 31.13(2) for each separate rule making that it proposes, adopts, or terminates under the provisions of Iowa Code chapter 17A and this chapter. These
indices and rule-making records, including materials incorporated by reference, are available for public inspection at IPERS’ headquarters.

31.13(2) Contents of rule-making record. The agency shall maintain a file containing the indices from each separate rule making that it proposes, adopts, or terminates under the provisions of Iowa Code chapter 17A and this chapter. This file shall also include information showing the date of publication in the Iowa Administrative Bulletin and ARC number where each applicable rule making was published. Each separate rule-making record shall contain:

a. Copies of all publications in the Iowa Administrative Bulletin with respect to a rule making and any file-stamped copies of agency submissions to the administrative rules coordinator concerning the rule making;

b. All written petitions for declaratory orders, all requests for rule makings, all submissions by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, and all other written materials of a factual nature as distinguished from opinion that are relevant to the merits of the rule and that were created or compiled by the agency and considered in connection with the formulation, proposal, or adoption of a rule or the proceeding upon which a rule is based, except to the extent the agency is authorized by law to keep them confidential; provided, however, that when any such materials are deleted because they are authorized by law to be kept confidential, the agency shall identify in the record the particular materials deleted and state the reasons for that deletion;

c. Any official transcript of oral presentations made in the rule-making proceedings or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;

d. A copy of any regulatory analysis or fiscal impact statement prepared for the rule-making proceedings;

e. A copy of the rule and any concise statement of reasons prepared for the rule;

f. All petitions for amendment, repeal or suspension of the rule;

g. A copy of any objection to the issuance of that rule without public notice and participation filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;

h. A copy of any objection to a rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any agency response to such objection;

i. A copy of any significant criticism of the rule, including a summary of any petitions for waiver of a rule; and

j. A copy of any executive order concerning the rule.

31.13(3) Effect of record. Except as otherwise required by a provision of law, the agency rule-making record required by this rule need not constitute the exclusive basis for agency action on a rule.

31.13(4) Maintenance of record. The agency shall maintain the rule-making record for a period of not less than five years from the date the rules to which it pertains became effective.

495—31.14(17A) Filing of rules. The agency shall file each rule it adopts in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule must have attached to it any fiscal impact statement and any concise statement of reasons that were issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the agency shall use the standard form prescribed by the administrative rules coordinator.
495—31.15(17A) Effectiveness of rules prior to publication.

31.15(1) Grounds. The agency may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare.

The agency shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

31.15(2) Special notice. When the agency makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)”b”(3), the agency shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule’s indexing and publication. The term “all reasonable efforts” requires the agency to employ the most effective and prompt means of notice rationalized calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the agency of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)”b”(3) shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of this subrule.

495—31.16(17A) General statements of policy.

31.16(1) Compilation, indexing, public inspection. The agency shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(11)”a,” “c,” “f,” “g,” “h,” and “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(11)”f.” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

31.16(2) Enforcement of requirements. A general statement of policy subject to the requirements of this subrule shall not be relied on by the agency to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 31.16(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

495—31.17(17A) Review by agency of rules.

31.17(1) Periodic comprehensive reviews. Beginning July 1, 2012, over each five-year period of time, the agency shall conduct an ongoing and comprehensive review of all of its rules, to identify and eliminate all rules of the agency that are outdated, redundant, or inconsistent or incompatible with the federal tax law requirements for a qualified plan, statute or its own rules or that of other agencies, pursuant to Iowa Code section 17A.7(2).

31.17(2) Petition for adoption, amendment or repeal of rules.

a. Any interested person may petition the agency requesting the adoption, amendment, or repeal of a rule. The agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition, pursuant to Iowa Code section 17A.7(1).

b. Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the agency to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the agency shall conduct a formal review of a specified rule to determine whether a new rule should be adopted or the rule should
be amended or repealed. The agency may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

31.17(3) Report responsive to request for review. In conducting the formal review, the agency shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the agency’s findings regarding the rule’s effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the agency or granted by the agency. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the agency’s report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code chapter 17A and Executive Order Number 80 of 2012.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]
[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 33
UNIFORM RULES FOR WAIVERS

495—33.1(17A,97B,ExecOrd11) Applicability. This chapter outlines a uniform process for the granting of waivers from rules adopted by the agency.

33.1(1) Agency authority. A waiver from rules adopted by the agency may be granted in accordance with this rule if:

a. The agency has exclusive rule-making authority to promulgate the rule from which a waiver is requested or has final decision-making authority over a contested case in which a waiver is requested; and

b. No statute or rule otherwise controls the grant of a waiver from the rule for which a waiver is requested.

33.1(2) Interpretive rules. This chapter shall not apply to rules that merely define the meaning of a statute or other provisions of law or precedent if the agency does not possess delegated authority to bind the courts to any extent with its definition.

33.1(3) Compliance with statute. No waiver may be granted from a requirement that is imposed by statute. Any waiver must be consistent with statute.

495—33.2(17A,97B,ExecOrd11) Criteria for waiver. The agency may issue an order granting a waiver, as applied to the circumstances of a specified person, if the petitioner establishes by clear and convincing evidence that:

1. Application of the rule to that person would result in hardship or injustice; and

2. Granting the waiver on the basis of the particular circumstances of that specified person would be consistent with the public interest; and

3. Granting the waiver in that case would not prejudice the substantial legal rights of any other person.

In determining whether a waiver would be consistent with the public interest under paragraph “2,” the agency shall consider whether, if the waiver is granted, the public interest will be protected by other means that are substantially equivalent to full compliance with the rule.

33.2(1) The agency may condition the grant of a proposed waiver on such reasonable conditions as are appropriate to achieve the objectives of the particular rule in question through alternative means.

33.2(2) This rule shall not preclude the agency from granting waivers in other contexts or on the basis of other standards if the agency deems it appropriate to do so and is not prohibited by state or federal statute, federal regulations, this rule, or any other rule adopted under Iowa Code chapter 17A from issuing such waivers.

33.2(3) The inadvertent granting of a waiver by the agency shall not be deemed to be a waiver to which the provisions of this rule apply but, depending on the facts and circumstances, the agency may limit enforcement of the affected rule(s) on a prospective basis.

33.2(4) The petitioner shall bear the burden of persuasion when a petition for waiver from an agency rule is filed.

33.2(5) When the rule from which a waiver is sought establishes administrative deadlines, the agency shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

495—33.3(17A,97B,ExecOrd11) Process for filing a petition. Any person may file with the agency a petition requesting a waiver, in whole or in part, of a rule of the agency on the ground that the application of the rule to the particular circumstances of that person would qualify for a waiver.

A petition for a waiver must be submitted in writing to the Administrative Rules Coordinator, Iowa Public Employees’ Retirement System (IPERS), 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. If the request relates to a pending contested case, the request shall also be filed in the contested case proceedings. Waiver rulings shall be made by agency staff having jurisdiction over the
particular issue and having the authority to issue final rulings on appeals regarding such issues, provided that the CEO shall have final authority with respect to all waiver rulings.

33.3(1) Contents of petition. A petition for waiver does not need to follow a particular format, but must contain the following elements.

a. The name, address, social security number, and telephone number of the petitioner and the name, address, and telephone number of the petitioner’s representative, if any.

b. The specific rule or rules for which a waiver is requested.

c. The precise scope and operative period of the waiver requested, including any alternative means or other condition or modification proposed to achieve the purposes of the rule.

d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition.

e. An explanation of the reasons for the waiver, including all material facts relevant to the waiver in question.

f. A description of any prior contacts between the agency and the petitioner relating to the proposed waiver including, but not limited to, a list or description of prior notices, investigative reports, advice, negotiations, consultations or conferences, contested case rulings, and penalties relating to the proposed waiver.

g. The name, address, and telephone number of any person or entity that would be adversely affected by the waiver in question.

h. Any information known to the petitioner regarding the agency’s treatment of similar cases.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Any signed releases required to obtain relevant information from persons with knowledge of such information.

33.3(2) Burden of proof. When a petition is filed for a waiver, the burden of proof shall be on the petitioner to demonstrate by clear and convincing evidence that the agency should grant the waiver.

495—33.4(17A,97B.ExecOrd11) Additional information. Prior to issuing an order granting or denying a petition for waiver, the agency may request additional information from the petitioner relating to the petition and surrounding circumstances. If the petition was not filed in a contested case, the agency may, on its own motion or at the petitioner’s request, schedule a telephonic or in-person meeting between the petitioner and agency representatives.

495—33.5(17A,97B.ExecOrd11) Notices. Within 30 business days after receipt of a petition for waiver of a rule, the agency shall give notice of the pendency of the petition and a concise summary of its contents to all persons to whom notice is required by any provision of law. In addition, the agency may give notice to other persons.

If notice is required to be served, the agency may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the agency attesting that notice has been provided.

495—33.6(17A,97B.ExecOrd11) Intervenors. Persons who qualify as intervenors under any provision of law may intervene in proceedings for waiver of a rule if they file timely petitions for intervention according to agency rules governing such intervention.

495—33.7(17A,97B.ExecOrd11) Hearing, ruling and timing. The provisions of 495—Chapter 26 shall apply to proceedings under this chapter if the petition for waiver is filed in a contested case proceeding. Prior to issuing an order granting or denying a proposed waiver, the agency shall determine whether or not the facts alleged in the proposed waiver are accurate and complete.

33.7(1) Ruling. An order granting or denying a proposed waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement
of the relevant facts and reasons on which that action is based, and a description of the precise scope (including any conditions) and operative period of the waiver, if one is granted.

33.7(2) Timing of ruling. The agency shall grant or deny a petition for waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date or the agency, specifying good cause, extends this time period with respect to a particular petition for an additional 30 days. However, if a petition for waiver has been filed in a contested case proceeding, the agency shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

33.7(3) When deemed denied. Failure of the agency to grant or deny a petition for waiver within the required time period shall be deemed a denial of that petition by the agency.

33.7(4) Service of order. Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

495—33.8(17A,97B,ExecOrd11) Defense. After an order granting a waiver is issued, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

495—33.9(17A,97B,ExecOrd11) Public availability. Subject to the provisions of Iowa Code section 17A.3(1)”e,” the agency shall maintain a record of all orders granting and denying waivers under this chapter. All final rulings in response to requests for waivers shall be indexed and available to members of the public at the headquarters of the agency.

495—33.10(17A,97B,ExecOrd11) Rules from which the agency shall not grant waivers. The agency shall not grant waivers from the following rules, except as otherwise indicated in the following list.

1. Rules which implement state or federal law, if the waiver could affect the taxability of pension benefits under the Internal Revenue Code and regulations thereunder or the Iowa Code and rules adopted thereunder;
2. Rules which set forth the formulas used to calculate IPERS’ monthly retirement benefits, actuarial equivalents, dividends, amounts to be credited to supplemental accounts of active members, refunds, death benefits, and service purchase costs;
3. Rules which implement contribution rates and actuarial assumptions set by IPERS;
4. Rules which limit the release of confidential information;
5. Rules which implement contracts between the agency and its vendors (except as permitted in such contracts);
6. Rules governing separations, disciplinary actions, reductions in force, and grievances and appeals as permitted by statute and applicable agency rules.
7. Rules governing the number of voting members of the IPERS’ investment board necessary to constitute a quorum and the number of votes necessary to constitute a vote of that board.

495—33.11(17A,97B,ExecOrd11) Voiding or cancellation. A waiver is void if the material facts upon which the petition is based are not true or if material facts have been withheld or omitted. The agency may at any time cancel a waiver upon appropriate notice and hearing if the agency finds that the facts as stated in the request are not true, material facts have been withheld or omitted, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute, or the petitioner has failed to comply with conditions set forth in the order.

495—33.12(17A,97B,ExecOrd11) Violations of conditions. Violations of the conditions precedent to a waiver’s approval shall be deemed to be violations of the particular rule for which the waiver was granted and will be subject to the same remedies or penalties.
495—33.13(17A,97B,ExecOrd11) Appeals. Appeals of the agency’s decisions regarding proposed waivers shall be filed in writing within 30 days after notice of the decision is mailed to the petitioner.

These rules are intended to implement Executive Order Number 11 of 1999 and Iowa Code chapters 17A and 97B.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
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621—7.1(20) General. Except as provided in the second paragraph of subrule 7.5(6), the rules set forth in this chapter are applicable only in the absence of an impasse agreement between the parties or the failure of either to utilize its procedures. Nothing in these rules shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

621—7.2(20) Fees of neutrals. Transferred to 621—1.8(20,279), IAB 11/14/90, effective 12/19/90.

621—7.3(20) Mediation.

7.3(1) Request for mediation. Either party to an impasse may request the board in writing to appoint a mediator to the impasse.

An original and one copy of the request for mediation shall be filed with the board and shall, in addition to the request for mediation, contain:

a. The name, address, and telephone number of the requesting party, and the name, address and telephone number of its bargaining representative or of the chairperson of its bargaining team.

b. The name, address, and telephone number of the opposing party to the impasse, and the name, address and telephone number of its bargaining representative or of the chairperson of its bargaining team.

c. A description of the collective bargaining unit involved and the approximate number of employees in the unit.

d. A statement indicating whether the public employer of the unit involved is subject to the budget certification requirements of Iowa Code section 24.17 and, if the public employer is not subject to those requirements, a statement of the date upon which the public employer’s next fiscal or budget year commences.

e. A concise and specific listing of the negotiated items upon which the parties have reached impasse.

7.3(2) Date, signature and notice. The request for mediation shall be dated and signed by an authorized representative of the requesting party. The requesting party shall also serve a copy of the request upon other parties to the negotiations either by personal delivery or by ordinary mail.

7.3(3) Appointment of mediator. Upon receipt of a request for mediation, the board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The board shall determine the effective date of this appointment.

7.3(4) Confidential nature of mediation. Any information, either written or oral, disclosed by the parties to the mediator in the performance of mediation duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved or permitted by Iowa Code section 20.31.

The mediator shall not disclose any information with regard to any mediation conducted on behalf of any party to any cause pending in a proceeding before a court, board, investigatory body or arbitrator, except as permitted by Iowa Code section 20.31, without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator’s duties.

7.3(5) Mediation proceedings. The mediator may hold separate or joint meetings with the parties or their representatives, and those meetings shall not be public. Mediation meetings shall be conducted at a time and place designated by the mediator. If an impasse exists ten days after the effective date of the appointment of a mediator, the mediator shall so notify the board.

7.3(6) Board mediator. When the mediator is an employee of the Public Employment Relations Board, that mediator shall not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.
7.3(7) Costs of mediation. The mediator shall submit in writing to the board a list of fees and
expenses.
[ARC 8317B, IAB 12/2/09, effective 11/1/09; ARC 8338B, IAB 12/2/09, effective 11/10/09; ARC 8953B, IAB 7/28/10, effective 9/1/10]


621—7.5(20) Binding arbitration.

7.5(1) Request for arbitration. If the dispute remains unresolved ten days after the effective date of
the appointment of the mediator, either party to the impasse may request the board to arrange for binding
arbitration.

7.5(2) Form and contents of request. The request for arbitration shall be in writing and shall include
the name, address and signature of the requesting party and the capacity in which acting.

7.5(3) Service of request. The requesting party shall serve a copy of the request for arbitration upon
the opposing party by ordinary mail.

7.5(4) Exchange of final offers. Within four days of the board’s receipt of the request for arbitration,
each party shall serve its final offer on each of the impasse items to the other party to the impasse. Final
offers shall not be amended. A party shall not submit a final offer for arbitration which has not been
offered to the other party in the course of negotiations.

7.5(5) Selection of arbitrator. Upon the filing of a timely request for arbitration, the board shall serve
a list of five arbitrators upon the parties. Within five days of service of the list, the parties shall select
their arbitrator from the list in the manner specified in Iowa Code section 20.22(4) as amended by 2010

7.5(6) Date and conduct of hearings. Impasse items are deemed submitted to binding arbitration on
the date of the commencement of the arbitration hearing, regardless of its duration. In disputes where
the public employer is a community college, or where all or a portion of the public employees in the
bargaining unit are teachers licensed under Iowa Code chapter 272 and the public employer is a school
district or area education agency, the submission of impasse items to binding arbitration shall occur not
later than May 13 of the year when the resulting collective bargaining agreement is to become effective.

Arbitration hearings shall be open to the public and shall be recorded either by mechanized means or
by a certified shorthand reporter. The arbitration hearing shall be limited to those factors listed in Iowa
Code section 20.22(9) and such other relevant factors as may enable the arbitrator to select the most
reasonable offer, in the arbitrator’s judgment, of the final offers submitted by the parties on each impasse
item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise
consider the factors listed in Iowa Code section 20.22(9).

7.5(7) Continued bargaining. The parties may continue to bargain on the impasse items before the
arbitrator until the arbitrator’s selections are made. Should the parties reach agreement on an impasse
item following its submission to arbitration, they shall immediately report their agreement to the
arbitrator. The agreed upon term shall be incorporated into the parties’ collective bargaining agreement,
and the arbitrator shall no longer consider the final offers of the parties on that impasse item.

7.5(8) Report of the arbitrator. Within 15 days after the arbitration hearing, the arbitrator shall issue
a written award specifying and explaining the arbitrator’s selections and serve each party and the board
with a copy by ordinary mail.

7.5(9) Dismissal of arbitrator. In the event of a failure of the arbitrator to issue an award within
15 days after the arbitration hearing, the arbitrator shall notify the board and the parties of this failure.
Either party may thereafter request a new arbitrator. Unless the parties agree otherwise, the procedures
in subrules 7.5(1) to 7.5(5) shall apply; provided, however, that the parties may submit new final offers.
No arbitrator shall issue a partial award except by mutual consent of the parties.

7.5(10) Costs of arbitration. The arbitrator shall submit to the parties a written statement of fees and
expenses with a copy sent to the board. The parties shall share the costs of arbitration equally.
[ARC 8953B, IAB 7/28/10, effective 9/1/10]
621—7.6(20) Impasse procedures after completion deadline.

7.6(1) Objections. Any objection by a party to mediation or the conduct of arbitration proceedings which will not be completed by the applicable deadline for completion of impasse procedures shall be filed with the agency in accordance with rule 621—16.4(20). The objecting party shall promptly serve the other party with a copy of the objection and file proof thereof with the agency in accordance with 621—subrules 2.15(3) and 16.10(1). The objection shall be filed and served no later than 10 days after the filing with the agency of the request for mediation or arbitration to which the objection refers. For purposes of this rule, a single-party request for mediation which is filed more than 120 days prior to the applicable deadline for completion of impasse procedures or a request for arbitration which is filed prior to the filing period specified in subrule 7.5(1) shall be deemed filed on the first day of that filing period. Failure to file an objection in a timely manner may constitute waiver of such objection, in which case the applicable deadline for completion of impasse procedures shall not apply.

7.6(2) Response to objection. The nonobjecting party may, within 10 days following the filing of an objection with the board, file a response asserting that, because of deliberate delay on the part of the objecting party, or unavoidable casualty, misfortune or other events beyond the parties’ control, impasse procedures should continue beyond the applicable deadline. A response may additionally or alternatively assert that the deadline relied upon by the objecting party is inapplicable for reasons set forth in the response, or may assert other reasons why impasse procedures should not be terminated. If a response is not filed within the time allowed by this subrule, the board may issue an order terminating further impasse procedures.

7.6(3) Procedure. Filing of an objection before the applicable deadline for completion of impasse procedures shall not affect the obligation of each party to continue the impasse procedures. Further, the board may postpone hearing on the objection if it determines that mediation may take place or that an arbitration award may be rendered on or before the applicable deadline. In making that determination, the board will attempt to expedite any remaining impasse proceedings, but no party shall be required to waive or shorten any mandatory statutory time periods which apply to that party.

7.6(4) Hearings. Insofar as is applicable, hearings on a party’s objection shall be conducted pursuant to 621—Chapter 2. The nonobjecting party shall proceed first and shall have the burden to show that impasse procedures should not be terminated. The board shall then issue a final order that further impasse procedures should be completed or should continue for a specified period of time or should be terminated.

7.7(20) Impasse procedures for state employees.

7.7(1) Procedures. Statutory procedures in Iowa Code sections 20.20 to 20.22, and independent impasse procedures negotiated by the parties must provide that the impasse be submitted to binding arbitration and the arbitration hearing concluded no later than February 28, and that any arbitrator’s award shall be issued on or before March 15. This rule does not preclude the parties from mutually agreeing to a date other than February 28, but the agreement must result in an arbitration award on or before March 15.

7.7(2) Independent procedures. Independent impasse procedures negotiated by the parties must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator’s award will be issued on or before March 15.

7.7(3) Statutory procedures. In the absence of independent procedures, the procedures in Iowa Code sections 20.20 and 20.22 and rules 621—7.1(20) to 621—7.5(20) shall apply, except that a single-party request for mediation must be filed no later than December 14, a request for binding arbitration must be filed by February 1, and an arbitration hearing must be concluded no later than February 28.

7.7(4) New certifications. Statutory impasse procedures under these rules shall not be available if the employee organization has been certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if an employee organization is certified after December 1 and the procedures will result in an arbitration award on or before March 15.

7.7(5) Negotiability disputes. Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to 621—6.3(20) no later than March 1.
An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. Notwithstanding the provisions of 621—2.19(20), no stay of impasse procedures will be granted during the pendency of any negotiability dispute, petition for declaratory order, or prohibited practice complaint.

This rule is intended to implement Iowa Code section 20.17.

[ARC 8953B, IAB 7/28/10, effective 9/1/10]

621—7.8(20) Termination and resumption of bargaining and impasse procedures not completed on or before the enactment of 2017 Iowa Acts, House File 291. Parties who have not completed a collective bargaining agreement under the procedures in effect prior to the enactment of 2017 Iowa Acts, House File 291, by ratification as provided in Iowa Code section 20.17(4) or by the issuance of an arbitrator’s final determination as described in Iowa Code section 20.22(11) shall immediately terminate their bargaining and impasse procedures in process. The parties shall commence bargaining and impasse procedures anew in accordance with the provisions of 2017 Iowa Acts, House File 291.

[ARC 2988C, IAB 3/15/17, effective 2/22/17]

621—7.9(20) Bargaining and impasse procedures conducted on or after February 17, 2017.

7.9(1) Applicability:

a. This rule applies to parties that, on February 17, 2017:

(1) Were engaged in bargaining or impasse procedures for a collective bargaining agreement to become effective in 2017;

(2) Were engaged in bargaining or impasse procedures for a collective bargaining agreement which would be applicable to a bargaining unit of employees of a state public employer or of a city, county or other public employer with a certified budget submission date of March 15, 2017;

(3) Are not parties to an independent impasse agreement establishing a bargaining and impasse completion deadline other than the employer’s certified budget submission date; and

(4) Are not excepted by subrule 7.9(2).

b. All other provisions of 621—Chapters 6 and 7 shall apply to such parties except as altered by this rule.

c. 2017 Iowa Acts, House File 291, establishes a deadline for the completion of collective bargaining and impasse procedures of June 30, 2017, for bargaining units employed by a school district, area education agency or community college, unless the parties establish a different deadline by mutual agreement. The procedures applicable to such bargaining units are not subject to this rule.

7.9(2) Exceptions. The emergency bargaining and impasse procedures provided by this rule do not apply to parties to a collective bargaining agreement which, as of the enactment of 2017 Iowa Acts, House File 291:

a. Has been ratified in a ratification election referred to in Iowa Code section 20.17(4);

b. Has been established by an arbitrator’s final determination specifying the terms of the collective bargaining agreement as described in Iowa Code section 20.22(11); or

c. Has become effective.

7.9(3) Waiver of completion deadlines. Because of the short period of time between the enactment of 2017 Iowa Acts, House File 291, and March 15, 2017, parties subject to a March 15 completion deadline are encouraged to negotiate and enter into an independent impasse agreement waiving that deadline and establishing an alternative deadline which allows for a less hurried procedure than is required by subrule 7.9(4).

7.9(4) Bargaining and impasse procedures conducted on or after February 17, 2017. For parties, mediators, arbitrators and bargaining units within the scope of this rule, the following procedures apply:

a. The parties must complete their exchange of initial bargaining positions not later than Monday, February 27, 2017. Subject to the requirements of Iowa Code chapter 21, the parties may make their exchanges on the same day, with the certified employee organization presenting its initial bargaining position first.

b. If the impasse has not been resolved, the parties must participate in mediation not later than Thursday, March 2, 2017, if requested by either party. A party that has previously filed a request for
621—7.10 Binding arbitrations conducted on or after February 17, 2017.

7.10(1) Applicability. All parties engaged in bargaining or impasse procedures for a collective bargaining agreement to become effective in 2017 are subject to the binding arbitration procedures specified in this rule unless otherwise specified in rule 621—7.8(20). All other provisions of 621—Chapters 6 and 7 shall apply except as altered by this rule.

7.10(2) Exchange of offers. Except for parties utilizing the procedures specified in rule 621—7.8(20), each party shall serve its final offer on each of the impasse items upon the other party within four days of the board’s receipt of the request for arbitration, or by a deadline otherwise agreed upon by the parties.

7.10(3) Submission of impasse items and limitation of evidence. The submission of the impasse items to the arbitrator shall be limited to those mandatorily negotiable items upon which the parties have not reached agreement and any permissive items which the parties have agreed to submit to arbitration. With respect to each such impasse item, the arbitrator’s award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator, except as provided in paragraph 7.10(5) “d.” The parties shall not introduce, and the arbitrator shall not accept or consider, any direct or indirect evidence regarding any subject excluded from negotiations pursuant to Iowa Code section 20.9 as amended by 2017 Iowa Acts, House File 291, except as required for purposes of the consideration of the factors specified in subrule 7.10(4) and paragraph 7.10(5)”a.”

7.10(4) Arbitration involving a bargaining unit that has at least 30 percent of members who are public safety employees. The arbitrator shall consider and specifically address in the arbitrator’s determination, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.

7.10(5) Arbitration involving a bargaining unit that does not have at least 30 percent of members who are public safety employees.

a. The arbitrator shall consider and specifically address in the arbitrator’s determination, in addition to any other relevant factors, the following factors:

(1) Comparison of base wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved. To the extent adequate, applicable data is available, the arbitrator shall also compare base wages, hours, and conditions of employment of the involved public employees with those of private sector employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

(2) The interests and welfare of the public.

(3) The financial ability of the employer to meet the cost of an offer in light of the current economic conditions of the public employer. The arbitrator shall give substantial weight to evidence that the public employer’s authority to utilize funds is restricted to special purposes or circumstances by state or federal law, rules, regulations, or grant requirements.

b. The arbitrator shall not consider the following factors:

(1) Past collective bargaining agreements between the parties or bargaining that led to such agreements.

(2) The public employer’s ability to fund an award through the increase or imposition of new taxes, fees, or charges or to develop other sources of revenue.

c. The arbitrator’s award on the impasse item of base wages shall not exceed the lesser of the following percentages in any one-year period in the duration of the bargaining agreement:

(1) Three percent.

(2) A percentage equal to the increase in the consumer price index for all urban consumers for the Midwest region, if any, as provided by the agency.

d. Should the final offers of both parties on the impasse item of base wages exceed the lesser of the percentages specified in paragraph 7.10(5)“c,” the arbitrator shall select neither of the parties’ offers, but shall instead award the lesser of the amounts listed in paragraph 7.10(5)“c.”

Rules 621—7.8(20) to 621—7.10(20) are intended to implement Iowa Code chapter 20 as amended by 2017 Iowa Acts, House File 291.

[ARC 2988C, IAB 3/15/17, effective 2/22/17]

These rules are intended to implement Iowa Code chapter 20.

[Filed 3/4/75]
[Filed emergency 12/30/75—published 1/26/76, effective 12/30/75]
[Filed 10/29/76, Notice 9/22/76—published 11/17/76, effective 12/22/76]
[Filed emergency 10/26/77 after Notice 9/21/77—published 11/16/77, effective 11/1/77]
[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]
[Filed 11/7/80, Notice 9/17/80—published 11/26/80, effective 12/31/80]
[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]
[Filed emergency 7/23/85—published 8/14/85, effective 7/23/85]
[Filed 10/9/86, Notice 8/27/86—published 11/5/86, effective 12/10/86]
[Filed 10/24/90, Notice 9/19/90—published 11/14/90, effective 12/19/90]
[Filed emergency 9/18/91—published 10/16/91, effective 9/20/91]
[Filed emergency 9/25/92—published 10/14/92, effective 9/28/92]
[Filed emergency 11/18/94—published 12/7/94, effective 11/21/94]
[Filed 1/11/95, Notice 12/7/94—published 2/1/95, effective 3/8/95]
Effective date of 7.2 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).
CHAPTER 1
ADMISSION RULES COMMON TO THE THREE STATE UNIVERSITIES

[Prior to 4/20/88, Regents, Board of[720]]

PREAMBLE

The state board of regents has adopted the following requirements governing admission of students to the three state universities.

Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

Amendments and changes in these requirements normally are proposed by the universities to the regent committee on educational relations, which examines the proposals and makes specific recommendations through the council of provosts to the state board of regents, which is empowered by law to establish the admission requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students’ potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

[ARC 2051C; IAB 7/8/15, effective 8/12/15]

681—1.1(262) Admission of undergraduate students directly from high school. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

1.1(1) Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(3) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants must also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

1.1(2) Admission criteria.
   a. Effective for students who seek admission prior to fall 2009. Graduates of approved Iowa high schools who have the subject matter background required by each university and who rank in the upper one-half of their graduating class will be admitted to any regent university. Applicants who are not in the upper one-half of their graduating class may, after an individual review of their academic and test records, and at the discretion of the admissions officers:
      (1) Be admitted unconditionally,
      (2) Be admitted conditionally,
      (3) Be required to enroll for a tryout period during a preceding summer session, or
      (4) Be denied admission.
   b. Effective for students who seek admission in fall 2009 and thereafter:
      (1) Decisions on admission to a regent university are based on the following four factors: performance on standardized tests (SAT Reasoning Test or ACT); high school grade point average (GPA); high school percentile rank in class (when available); and number of high school courses completed in the core subject areas. A primary regent admission index (RAI) will be calculated for each freshman applicant using the formula below when the high school has provided a class rank.
RAI = \frac{(2 \times \text{ACT composite score}) + (1 \times \text{high school rank expressed as a percentile}) + (20 \times \text{high school grade point average}) + (5 \times \text{number of high school courses completed in the core subject areas})}{100}

NOTE: For purposes of calculating the primary regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school rank is expressed as a percentile with 99 percent as the top value; high school GPA is expressed in a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

(2) Graduates of approved Iowa high schools who have the subject matter background required by each university and who meet the regent admission index of 245 required for automatic admission will be admitted to any regent university. Applicants who do not meet the regent admission index of 245 for automatic admission or for whom a regent admission index cannot be calculated may, after an individual review of their academic and test records, and at the discretion of the admissions officers:

1. Be admitted unconditionally,
2. Be admitted conditionally,
3. Be required to enroll for a tryout period during a preceding summer session, or
4. Be denied admission.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students’ potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

An alternative regent admission index (RAI) will be calculated for each freshman applicant using the equation below when the high school has not provided a class rank.

RAI = \frac{(3 \times \text{ACT composite score}) + (30 \times \text{high school grade point average}) + (5 \times \text{number of high school courses completed in the core subject areas})}{100}

NOTE: For purposes of calculating the alternative regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school GPA is expressed on a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum number of high school courses required by the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

1.1(3) Graduates of approved high schools in other states may be held to higher academic standards, but must meet at least the same requirements as graduates of Iowa high schools. The options for conditional admission or summer tryout enrollment may not necessarily be offered to these students.

1.1(4) Applicants who are graduates of nonapproved high schools will be considered for admission in a manner similar to applicants from approved high schools, but additional emphasis will be given to scores obtained on standardized examinations.

1.1(5) Applicants who are not high school graduates, but whose classes have graduated, may be considered for admission. These applicants will be required to submit all academic data to the extent that it exists and achieve scores on standardized examinations which will demonstrate that they are adequately prepared for academic study.

1.1(6) Early admission.

a. Students with superior academic records may be admitted, on an individual basis, for part-time university study while enrolled in high school or during the summers prior to high school graduation.
In rare situations, exceptional students may be admitted as full-time students to a regent university before completing high school. Early admission to a regent university is provided to serve persons whose academic achievement and personal and intellectual maturity clearly suggest readiness for collegiate level study. Each university will specify requirements and conditions for early admission. This rule is intended to implement Iowa Code section 262.9(3).

[ARC 2051C; IAB 7/8/15, effective 8/12/15]

681—1.2(262) Admission of undergraduate students by transfer from other colleges. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(18) and detailed in rule 681—1.7(262), and request that each college they have attended send an official transcript of record to the admissions office. High school academic records and standardized test results may also be required. The Test of English as a Foreign Language (TOEFL) is required of foreign students whose first language is not English.

1.2(1) Transfer applicants with a minimum of 24 semester hours of graded credit from regionally accredited colleges or universities, who have achieved for all college work previously attempted the grade point required by each university for specific programs, will be admitted. Higher academic standards may be required of students who are not residents of Iowa.

Applicants who have not maintained the grade point required by each university for specific programs or who are under academic suspension from the last college attended may, after a review of their academic and test records, and at the discretion of the admissions officers:

a. Be admitted unconditionally,

b. Be admitted conditionally,

c. Be required to enroll for a tryout period during a preceding summer session, or

d. Be denied admission.

1.2(2) Admission of students with fewer than 24 semester hours of college credit will be based on high school academic and standardized test records in addition to review of the college record.

1.2(3) Transfer applicants under disciplinary suspension will not be considered for admission until information concerning the reason for the suspension has been received from the college assigning the suspension. Applicants granted admission under these circumstances will be admitted on probation.

1.2(4) Transfer applicants from colleges and universities not regionally accredited will be considered for admission on an individual basis taking into account all available academic information.

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

681—1.3(262) Transfer credit practices. The regent universities endorse the Joint Statement on Transfer and Award of Academic Credit approved in 1978 by the American Council on Education (ACE), the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and the Council on Postsecondary Accreditation (COPA). The current issue of Transfer Credit Practices of Selected Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and publications of the Council on Postsecondary Accreditation (COPA) are examples of references used by the universities in determining transfer credit. The acceptance and use of transfer credit is subject to limitations in accordance with the educational policies operative at each university.

1.3(1) Students from regionally accredited colleges and universities. Credit earned at regionally accredited colleges and universities is acceptable for transfer except that credit in courses determined by the receiving university to be of a remedial, vocational, or technical nature, or credit in courses or programs in which the institution granting the credit is not directly involved, may not be accepted, or may be accepted to a limited extent.
Of the coursework earned at a two-year college, students may apply up to one-half but no more than 65 hours of the credits required for a bachelor’s degree toward that degree at a regent university. This policy becomes effective September 29, 1993.

1.3(2) Students from colleges and universities which have candidate status. Credit earned at colleges and universities which have become candidates for accreditation by a regional association is acceptable for transfer in a manner similar to that from regionally accredited colleges and universities if the credit is applicable to the bachelor’s degree at the receiving university.

Credit earned at the junior and senior classification from an accredited two-year college which has received approval by a regional accrediting association for change to a four-year college may be accepted by a regent university.

1.3(3) Students from colleges and universities not regionally accredited. When students are admitted from colleges and universities not regionally accredited, they may validate portions or all of their transfer credit by satisfactory academic study in residence, or by examination. Each university will specify the amount of the transfer credit and the terms of the validation process at the time of admission.

In determining the acceptability of transfer credit from private colleges in Iowa which do not have regional accreditation, the regent committee on educational relations, upon request from the institutions, evaluates the nature and standards of the academic program, faculty, student records, library, and laboratories.

In determining the acceptability of transfer credit from colleges in states other than Iowa which are not regionally accredited, acceptance practices indicated in the current issue of Transfer Credit Practices of Selected Educational Institutions will be used as a guide. For institutions not listed in the publication, guidance is requested from the designated reporting institution of the appropriate state.

1.3(4) Students from foreign colleges and universities. Transfer credit from foreign educational institutions may be granted after a determination of the type of institution involved and after an evaluation of the content, level, and comparability of the study to courses and programs at the receiving university. Credit may be granted in specific courses, but is frequently assigned to general areas of study. Extensive use is made of professional journals and references which describe the education systems and programs of individual countries.

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

681—1.4(262) Classification of residents and nonresidents for admission, tuition, and fee purposes.

1.4(1) General.

a. A person enrolling at one of the three state universities shall be classified as a resident or nonresident for admission, tuition, and fee purposes by the registrar or someone designated by the registrar. The decision shall be based upon information furnished by the student and other relevant information.

b. In determining resident or nonresident classification, the issue is essentially one of why the person is in the state of Iowa. If the person is in the state primarily for educational purposes, that person will be considered a nonresident. For example, it may be possible that an individual could qualify as a resident of Iowa for such purposes as voting, or holding an Iowa driver’s license, and not meet the residency requirements as established by the board of regents for admission, tuition, and fee purposes.

c. The registrar, or designated person, is authorized to require written documents, affidavits, verifications, or other evidence deemed necessary to determine why a student is in Iowa. The burden of establishing that a student is in Iowa for other than educational purposes is upon the student.

A student may be required to file any or all of the following:

(1) A statement from the student describing employment and expected sources of support;
(2) A statement from the student’s employer;
(3) A statement from the student’s parents verifying nonsupport and the fact that the student was not listed as a dependent on tax returns for the past year and will not be so listed in future years;
(4) A statement from the student’s spouse related to sources of family support, length of residence in Iowa, and reasons for being in the state of Iowa;
(5) Supporting statements from persons who might be familiar with the family situation;
(6) Iowa state income tax return.

d. Applications for resident classification for a given semester or session are due no later than the fifteenth class day of that semester or session. Applications received after the fifteenth class day of that semester or session will be considered for the next semester or session. Appeals of any nonresident classification decision resulting from applications for resident classifications are due no later than midterm of that semester or session. Change of classification from nonresident to resident will not be made retroactive beyond the term in which application for resident classification is made.

e. A student who gives incorrect or misleading information to evade payment of nonresident fees shall be subject to serious disciplinary action and must also pay the nonresident fees for each term previously attended.

f. Review committee. These regulations shall be administered by the registrar or someone designated by the registrar. The decision of the registrar or designated person may be appealed to a university review committee. The decision of the review committee may be appealed to the state board of regents.

1.4(2) Guidelines.

a. The following general guidelines are used in determining the resident classification of a student for admission, tuition, and fee purposes:

   (1) A financially dependent student whose parents move from Iowa after the student is enrolled remains a resident provided the student maintains continuous enrollment. A financially dependent student whose parents move from Iowa during the senior year of high school will be considered a resident provided the student has not established domicile in another state.

   (2) In deciding why a person is in the state of Iowa, the person’s domicile will be considered. A person who comes to Iowa from another state and enrolls in any institution of postsecondary education for a full program or substantially a full program shall be presumed to have come to Iowa primarily for educational reasons rather than to establish a domicile in Iowa.

   (3) A student who was a former resident of Iowa may continue to be considered a resident provided absence from the state was for a period of less than 12 months and provided domicile is reestablished. If the absence from the state is for a period exceeding 12 months, a student may be considered a resident if evidence can be presented showing that the student has long-term ties to Iowa and reestablishes an Iowa domicile.

   A person or the dependent of a person whose domicile is permanently established in Iowa, who has been classified as a resident for admission, tuition, and fee purposes, may continue to be classified as a resident so long as domicile is maintained, even though circumstances may require extended absence of the person from the state. It is required that a person who claims Iowa domicile while living in another state or country will provide proof of the continual Iowa domicile as evidence that the person:

   1. Has not acquired a domicile in another state,
   2. Has maintained a continuous voting record in Iowa, and
   3. Has filed regular Iowa resident income tax returns during absence from the state.

   (4) A student who moves to Iowa may be eligible for resident classification at the next registration following 12 consecutive months in the state provided the student is not enrolled as more than a half-time student (6 credits for an undergraduate or professional student, 5 credits for a graduate student) in any academic year term, is not enrolled for more than 4 credits in a summer term for any classification, and provides sufficient evidence of the establishment of an Iowa domicile.

   (5) A student who has been a continuous student and whose parents move to Iowa may become a resident at the beginning of the next term provided the student is dependent upon the parents for a majority of financial assistance.

   (6) A person who has been certified as a refugee or granted asylum by the appropriate agency of the United States who enrolls as a student at a university governed by the Iowa state board of regents may be accorded immediate resident status for admission, tuition, and fee purposes when the person:

   1. Comes directly to the state of Iowa from a refugee facility or port of debarkation, or
   2. Comes to the state of Iowa within a reasonable time and has not established domicile in another state.
Any refugee or individual granted asylum not meeting these standards will be presumed to be a nonresident for admission, tuition, and fee purposes and thus subject to the usual method of proof of establishment of Iowa residency.

(7) An alien who has immigrant status establishes Iowa residency in the same manner as a United States citizen.

(8) At the regent institutions, American Indians who have origins in any of the original people of North America and who maintain a cultural identification through tribal affiliation or community recognition with one or more of the tribes or nations connected historically with the present state of Iowa, including the Iowa, Kickapoo, Menominee, Miami, Missouri, Ojibwa (Chippewa), Omaha, Otoe, Ottawa (Odawa), Potawatomi, Sac and Fox (Sauk, Meskwaki), Sioux, and Winnebago (Ho Chunk), will be assessed Iowa resident tuition and fees.

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and other qualified individuals for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the child or spouse/domestic partner of such person, is entitled to resident status for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees. The child or spouse/domestic partner may be required to submit appropriate documentation to the university.

(2) The rules for classification of veterans and qualified individuals shall be in full compliance with all federal laws, including Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Choice Act). The qualified individual may be required to submit appropriate documentation to the university.

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the child or spouse/domestic partner of such a person, is entitled to resident status. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

1.4(3) Facts.

a. The following circumstances, although not necessarily conclusive, have probative value in support of a claim for resident classification:

(1) Reside in Iowa for 12 consecutive months, and be primarily engaged in activities other than those of a full-time student, immediately prior to the beginning of the term for which resident classification is sought.

(2) Reliance upon Iowa resources for financial support.

(3) Domicile in Iowa of persons legally responsible for the student.

(4) Former domicile in the state and maintenance of significant connections therein while absent.

(5) Acceptance of an offer of permanent employment in Iowa.

(6) Military orders, if for other than educational purposes.

(7) Other facts indicating the student’s domicile will be considered by the universities in classifying the student.

b. The following circumstances, standing alone, do not constitute sufficient evidence of domicile to effect classification of a student as a resident under these regulations:

(1) Voting or registration for voting.

(2) Employment in any position normally filled by a student.

(3) The lease of living quarters.

(4) Admission to a licensed practicing profession in Iowa.

(5) Automobile registration.

(6) Public records, for example, birth and marriage records, Iowa driver’s license.

(7) Continuous presence in Iowa during periods when not enrolled in school.
Ownership of property in Iowa, or the payment of Iowa taxes.
This rule is intended to implement Iowa Code section 262.9(3).


681—1.5(262) Registration and transcripts—general. A person may not be permitted to register for a course or courses at a state board of regents institution until any delinquent accounts owed by the person to an institution or any affiliated organization for which an institution acts as fiscal agent have been paid.

A state board of regents institution may withhold official transcripts of the academic record of a person until any delinquent accounts owed by the person to an institution or any affiliated organization for which an institution acts as fiscal agent have been paid.

This rule is intended to implement Iowa Code section 262.9.

681—1.6(262) College-bound program.

1.6(1) Definitions.

“Accredited private institution” means an institution of higher education as defined in Iowa Code section 261.9, subsection 5.

“Commission” means the college aid commission.

“Financial need” means the difference between the student’s financial resources, including resources available from the student’s parents and the student, as determined by a completed parents’ financial statement and including any non-campus-administered federal or state grants and scholarships, and the student’s estimated expenses while attending the institution. A student shall accept all available federal and state grants and scholarships before being considered eligible for grants under the Iowa minority academic grants for economic success program. Financial need shall be reconsidered on at least an annual basis.

“Full-time student” means an individual who is enrolled at an accredited private institution or board of regents university for at least 12 semester hours or the trimester or quarter equivalent.

“Minority person” means an individual who is black, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan Native American.

“Part-time student” means an individual who is enrolled at an accredited private institution or board of regents university in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours.

“Program” means the Iowa minority academic grants for economic success program established in this division.

1.6(2) Policy on college-bound program.

a. The regent institutions will cooperate with other state and local agencies, including the department of education, the college aid commission, and educational institutions in implementing the college-bound program.

b. The universities will develop programs for elementary, middle and secondary school students and their families in the following areas:

(1) Encouragement to consider attending a postsecondary institution;
(2) Enrichment and academic preparation;
(3) Information about how to apply for admission.

c. College-bound program vouchers will be awarded to students on the basis of the participation of the student and the student’s family in the college-bound program. One voucher will be awarded for participation in each college-bound program sponsored by a university.

(1) Each university will maintain records concerning those students who participate in the college-bound program, according to its established policies and procedures. The records will include information on those students who have received college-bound program vouchers which are described in Iowa Code section 262.92(2). The University of Iowa will maintain a central record on all students who have received college-bound program vouchers on behalf of all regent institutions and will make appropriate information available to the college aid commission.
(2) College-bound program vouchers may be used by students enrolled at a regent institution or at a private college or university in Iowa.

(3) A student holding vouchers and enrolling at a regent institution will receive priority in the award of funds under the Iowa minority academic grants for economic success (IMAGES) program. Awards under the IMAGES program are made on the basis of financial need. A student may be eligible for an additional award from the institution in which the student is enrolled.

(4) A student holding vouchers and enrolling at a private college or university in Iowa will receive priority in the award of funds under the Iowa minority academic grants for economic success program as provided by the rules of the college aid commission.

(5) The presidents, or their designees, will administer and coordinate the college-bound program at the universities. As part of the coordination, they will establish liaison with the appropriate state and local agencies, serve as the university contact and promote collaborative efforts among the regent universities and other appropriate agencies and institutions. Annual reports to the board of regents shall be prepared by each regent university. The reports shall contain relevant information as to the accomplishments of the program in the past year and a plan of action with goals and objectives for the forthcoming year. Reports shall be submitted to the board of regents on October 1 of each year.

This rule is intended to implement Iowa Code section 262.92.

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undergraduate domestic student and nondegree student</td>
<td>$40</td>
</tr>
<tr>
<td>Undergraduate international student</td>
<td>$85</td>
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<tr>
<td>Graduate/professional domestic student</td>
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<td>Graduate/professional international student</td>
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</tr>
<tr>
<td>PharmD student</td>
<td>$100</td>
</tr>
<tr>
<td>Reentry fee</td>
<td>$20</td>
</tr>
<tr>
<td>Iowa dental advanced standing program (international DDS student)</td>
<td>$250</td>
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Iowa State University

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undergraduate domestic student and nondegree student</td>
<td>$40</td>
</tr>
<tr>
<td>Undergraduate international student</td>
<td>$50</td>
</tr>
<tr>
<td>Graduate/professional domestic student</td>
<td>$60</td>
</tr>
<tr>
<td>Graduate/professional international student</td>
<td>$100</td>
</tr>
<tr>
<td>Veterinary Medicine</td>
<td>$75</td>
</tr>
</tbody>
</table>
University of Northern Iowa

Undergraduate domestic student and nondegree student $40
Undergraduate international student $50
Graduate/professional domestic student $60
Graduate/professional international student $75
Reentry fee $20

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


[Filed 12/17/58; amended 1/28/59, 5/26/59, 9/15/59, 10/28/59, 9/30/60, 7/12/67, 6/14/72, 5/16/73, 1/16/75, 6/10/75]
[Filed emergency 3/19/76—published 4/5/76, effective 3/19/76]
[Filed 3/19/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]
[Filed 12/18/80, Notices 10/15/80, 11/12/80—published 1/7/81, effective 2/11/81]
[Filed emergency 2/13/81—published 3/4/81, effective 2/13/81]
[Filed without Notice 8/21/85—published 9/11/85, effective 10/16/85]
[Filed 12/22/86, Notice 11/5/86—published 1/14/87, effective 2/18/87]
[Filed 1/22/88, Notice 11/18/87—published 2/10/88, effective 3/16/88]
[Filed 3/28/90, Notice 11/1/89—published 4/18/90, effective 5/23/90]
[Filed 6/19/91, Notice 5/15/91—published 7/10/91, effective 8/14/91]
[Filed 7/23/93, Notice 6/9/93—published 8/18/93, effective 9/29/93]
[Filed 9/21/95, Notice 8/16/95—published 10/11/95, effective 11/15/95]
[Filed 12/23/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]
[Filed 6/2/04, Notice 3/31/04—published 6/23/04, effective 7/28/04]
[Filed emergency 9/24/04—published 10/13/04, effective 9/24/04]
[Filed 8/11/06, Notice 5/24/06—published 8/30/06, effective 10/4/06]
[Filed 8/8/08, Notice 5/21/08—published 8/27/08, effective 10/1/08]
[Filed Emergency ARC 7911B, IAB 7/1/09, effective 7/1/09]
[Filed ARC 9034B (Notice ARC 8854B, IAB 6/16/10), IAB 8/25/10, effective 9/29/10]
[Filed ARC 9033B (Notice ARC 8807B, IAB 6/2/10), IAB 8/25/10, effective 9/29/10]
[Filed ARC 0037C (Notice ARC 9869B, IAB 11/30/11), IAB 3/7/12, effective 4/11/12]
[Filed ARC 0630C (Notice ARC 0469C, IAB 11/28/12), IAB 3/6/13, effective 4/10/13]
[Filed ARC 1895C (Notice ARC 1743C, IAB 11/26/14), IAB 3/4/15, effective 4/8/15]
[Filed ARC 2051C (Notice ARC 1916C, IAB 3/18/15), IAB 7/8/15, effective 8/12/15]
[Filed Emergency After Notice ARC 2332C (Notice ARC 2176C, IAB 9/30/15), IAB 12/23/15, effective 12/23/15]
[Filed ARC 2982C (Notice ARC 2818C, IAB 11/23/16), IAB 3/15/17, effective 4/19/17]
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Rules transferred from agency number [820] to [761] to conform with the reorganization numbering scheme in general

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IOWA TRANSPORTATION MAP

761—28.1(307) Definition. “Iowa Transportation Map” is the multicolored official map that is produced by the department to provide the motoring public with basic information on the location of cities and the highways connecting them.
[ARC 2983C, IAB 3/15/17, effective 4/19/17]

761—28.2(307) Information. Information regarding map use, content and production may be obtained from the Office of Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1664.
[ARC 2983C, IAB 3/15/17, effective 4/19/17]

761—28.3(307) Policy. The Iowa Transportation Map is to be distributed to the public without charge at department offices, at rest areas and on the department’s Web site at www.iowadot.gov. The map is not to be sold or used for purposes of personal or professional gain. The paper version or the electronic version of the map is not to be altered for distribution in any way, including adding a name or address of an individual, business or organization.

1. This policy applies to but is not limited to candidates running for political office.
2. It is not a violation of this policy for the pictures of the governor and lieutenant governor and a personal message to appear on the map.
[ARC 2983C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code sections 307.12 and 307.14.
[Filed 9/24/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]
[Filed ARC 2983C (Notice ARC 2906C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 143
TRAFFIC SIGNAL SYNCHRONIZATION

761—143.1(364) Definitions. The following definitions apply to these rules:

“Arterial street” means any U.S. or state numbered route, controlled access highway, or other major street or highway designated by the city within its respective jurisdiction as a part of a major arterial system of streets or highways.

“Controller” means a supervisory device that controls the sequence and duration of indications displayed by traffic signals.

“Coordination” means the establishment of a definite timing relationship between adjacent traffic signals.

“Cycle” means any complete sequence of traffic signal indications (phases).

“Detector” means a device that senses vehicular or pedestrian demand and transmits an impulse to a controller.

“Local controller” means a controller supervising the operation of traffic signals at a single or two closely spaced intersections.

“Master controller” means a controller supervising the operation of several local controllers.

“Phase” means a portion of the cycle during which an assignment of right-of-way is made to a traffic movement or combination of traffic movements.

“Traffic signal” means any permanently installed, electrically powered traffic control device by which traffic is alternately directed to stop and to proceed.

“Traffic signal system” means two or more traffic signals operating in a coordinated manner. Types of coordinated systems:

1. “Adaptive signal control system” means a system in which traffic signals across a signal network are coordinated by adjusting the lengths of signal phases based on prevailing traffic conditions.

2. “Computerized system” means a system in which controllers are supervised by a computer.

3. “Interconnected master-controlled system” means a system in which local controllers are supervised by a master controller through a communications link (wire/radio). The master establishes a base line condition; the local then operates its intersection in a predetermined relationship with the base line.

4. “Noninterconnected system” means a system in which timing relationships between individual local controllers are coordinated by manual settings, without physical interconnection between the controllers.

5. “Time-based coordinated system” means a noninterconnected system in which the local controllers use a programmable digital timing and control device (time-based coordinator) to maintain coordination.

6. “Traffic responsive system” means a system in which a master controller specifies cycle timings based on the real time demands of traffic as sensed by vehicle detectors.

[ARC 2984C, IAB 3/15/17, effective 4/19/17]

761—143.2(364) Applicability. This chapter applies to all cities with more than three traffic signals within the corporate limits.

761—143.3(364) Traffic signal inventory. Rescinded IAB 9/4/02, effective 10/9/02.

761—143.4(364) Required synchronization.

143.4(1) Unless a traffic engineering study documents that it is not practical, traffic signals within one-half mile of each other along an arterial street or in a network of intersecting arterial streets shall be operated as a traffic signal system.

143.4(2) Reserved.

143.4(3) Timing and operational plans developed for traffic signals shall be developed by application of traffic engineering principles to provide maximum traffic flow efficiencies and safety.
143.4(4) All traffic signal installations and operations shall meet the requirements of the “Manual on Uniform Traffic Control Devices,” as adopted in 761—Chapter 130.
[ARC 2984C, IAB 3/15/17, effective 4/19/17]

761—143.5(364) Reporting requirements. Rescinded IAB 9/4/02, effective 10/9/02.
This chapter is intended to implement Iowa Code section 364.24.
[Filed 3/12/90, Notice 1/24/90—published 4/4/90, effective 5/9/90]
[Filed 8/7/02, Notice 6/26/02—published 9/4/02, effective 10/9/02]
[Filed ARC 2984C (Notice ARC 2863C, IAB 12/21/16), IAB 3/15/17, effective 4/19/17]


VEHICLES

CHAPTER 400

VEHICLE REGISTRATION AND CERTIFICATE OF TITLE

[Prior to 6/3/87, Transportation Department[820]—(07,D)Ch 11]

761—400.1(321) Definitions. The definitions in Iowa Code section 321.1 are hereby made part of this chapter. In addition, the following words and phrases, when used in Iowa Code chapter 321 or this chapter, shall have the meanings respectively ascribed to them, except when the context otherwise requires.

“Certificate of title” means a document issued by the appropriate official which contains a statement of the owner’s title, the name and address of the owner, a description of the vehicle, a statement of all security interests and additional information required under the laws or rules of the jurisdiction in which the document was issued, and which is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms “title certificate,” “title only,” and “title” shall be synonymous with the term “Certificate of title.”

“Dealer’s or manufacturer’s stock or inventory” means a vehicle owned by a dealer which is being held for sale or trade and for which the dealer has a duly assigned ownership document as required by Iowa Code section 321.45.

“Farm trailer” means a trailer used exclusively by a farmer in the conduct of the farmer’s agricultural operation. The term shall not include a “semitrailer.”

“Half-year fee” means the first semiannual installment of an annual registration fee. The term “half-year registration” shall be synonymous with the term “half-year fee.”

“Hearse” means a motor vehicle used exclusively to transport a deceased person.

“Lien” means an interest in a vehicle which secures payment or performance of an obligation. The term “security interest” shall be synonymous with the term “lien.”

“Manufacturer’s certificate of origin” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. The terms “manufacturer’s statement,” “importer’s statement or certificate,” “MSO” and “MCO” shall be synonymous with the term “manufacturer’s certificate of origin.”

2. In addition to the requirements of Iowa Code subsection 321.45(1), the certificate shall contain a description of the vehicle which includes the make, model, style and vehicle identification number. The description of a motorized bicycle shall also specify the maximum speed.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers’ certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form is on file in the office of vehicle services at the address in subrule 400.6(1).

“Model year,” except where otherwise specified, means the year of original manufacture or the year certified by the manufacturer. For purposes of titling and registration, the model year shall advance one year each January 1.

“Registered” means that the appropriate registration fee has been paid for a vehicle and a registration card evidencing payment has been issued to the owner.

“Registration card” means a document issued to the owner of a vehicle by the appropriate agency whose duty it is to register vehicles, which contains the name and address of the owner and a description of the vehicle, and which is issued to the owner when the vehicle has been registered. The terms “registration certificate,” “registration receipt” and “registration renewal receipt” are synonymous with the term “registration card.”

“Security interest” means an interest in a vehicle which secures payment or performance of an obligation. The term “lien” shall be synonymous with the term “security interest.”
“Social security number” means a social security number issued by the United States government. This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.117, 321.123, 321.134 and 321.157.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.2(321) Vehicle registration and certificate of title—general provisions.

400.2(1) Vehicles subject to registration. A vehicle subject to registration under the laws of Iowa shall be required to be registered at the time the vehicle is first operated or moved upon a highway in this state.

400.2(2) Vehicles exempt from titling or registration. A certificate of title shall not be issued for a vehicle which is exempt from the titling or registration provisions of Iowa Code chapter 321, unless issuance of a certificate of title is specifically authorized in chapter 321.

400.2(3) Issuance of a certificate of title upon payment of registration fees. Except as otherwise provided in Iowa Code chapter 321 or this chapter of rules, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title.

400.2(4) Trailers with an empty weight of 2000 pounds or less. Certificates of title shall not be issued for trailers with an empty weight of 2000 pounds or less. However, these trailers shall be subject to the registration fees provided in Iowa Code section 321.123.

400.2(5) Vehicles owned by the government. A certificate of title shall be issued for a vehicle owned by the government when the vehicle is first registered. However, vehicles owned by the government shall be exempted from registration and titling fees. Also, a certificate of title shall not be issued for a government-owned vehicle if a certificate of title would not be issued if the vehicle were owned by someone other than the government.

400.2(6) Vehicles leased by the government. Vehicles leased by the government for a period of 60 days or more are exempted from payment of registration fees. A copy of the lease agreement, certificate of lease, or other evidence that the vehicle is being leased by the government shall be required in order to obtain this exemption. However, the lessor is not exempted from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321 and these rules, including payment of the appropriate certificate of title fee.

400.2(7) Special mobile equipment. Rescinded IAB 3/7/90, effective 4/11/90.

400.2(8) Private school buses, fire trucks, authorized emergency vehicles, and transit buses. In accordance with Iowa Code sections 321.18, 321.19 and 321.22, private school buses, fire trucks not owned or operated for a pecuniary profit, certain authorized emergency vehicles owned and operated by nonprofit organizations, and urban and regional transit system buses are exempt from the payment of registration fees. However, these vehicles are not exempt from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321, including payment of the appropriate certificate of title fee.

This rule is intended to implement Iowa Code sections 321.18 to 321.22, 321.24 and 321.123.

761—400.3(321) Application for certificate of title or registration for a vehicle.

400.3(1) Application form. To apply for a certificate of title or registration for a vehicle, the owner of the vehicle shall complete an application form prescribed by the department. Application shall be made in accordance with Iowa Code chapter 321, these rules, and other applicable provisions of law.

400.3(2) Full legal name. Full legal names shall be given on the application. Civilian or military titles and nicknames shall not be used.

400.3(3) Information about owner, lessee and primary user.

a. Iowa Code sections 321.20 and 321.109 list the information that must be disclosed by the owner, lessee and primary user on the application.

b. A firm, association, corporation, or trust that is not required to have a federal employer identification number shall disclose the social security number, Iowa driver’s license number or Iowa nonoperator’s identification card number of an authorized representative of the firm, association,
corporation, or trust. The authorized representative of a trust is the trustee unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604.

400.3(4) Plate number and validation number. If the owner has registration plates that have been assigned to the owner and affixed to the vehicle, the owner shall list the plate number on the application form. The validation number from the validation sticker shall also be listed.

400.3(5) Birth or registration month. If the vehicle is owned by one individual, the individual’s month of birth shall be listed on the application form and shall determine the registration year. If the vehicle is owned by two or three individuals, the month of birth of one of the individuals shall be listed and shall determine the registration year. If the vehicle is owned by a partnership, corporation, association, or governmental subdivision, the birth or registration month shall be left blank on the application; the county treasurer shall determine the month of registration.

400.3(6) Model year. The application shall include the model year of the vehicle.

400.3(7) Purchase information. The application shall include the date of purchase or acquisition and, if the vehicle was not purchased from a dealer, the purchase price.

400.3(8) Vehicle color. The application shall include the vehicle color.

400.3(9) Foreign registered vehicle. If the vehicle is registered in a foreign jurisdiction, the application shall include the date the vehicle was brought into Iowa.

400.3(10) Signature of applicant. The owner shall sign the application form in ink.

400.3(11) Dealer certification.

a. If the vehicle is a new vehicle which has been sold to the owner by a dealer, as defined in Iowa Code section 321.1, the dealer shall certify the following on the application form: sale price of the vehicle, the amounts allowed for property traded-in, nontaxable charges and rebates, the tax price of the vehicle, the date that a “Registration Applied For” card was issued, and the registration fee collected.

b. The certification shall include the dealer’s number and name and shall be signed by the dealer or an authorized representative of the dealer.

400.3(12) Weigh ticket. If application is being made to lower the tonnage on any motor truck, bus or truck tractor, the county treasurer may require a copy of a stamped weigh ticket issued by any public scale.

400.3(13) Credits. See rule 761—400.60(321) for:

Credit for unexpired registration fee.
Credit for transfer to spouse, parent or child.
Credit from/to proportional registration.
Assignment of credit and registration plates from lessee to lessor.

400.3(14) Leased vehicle. As required by Iowa Code section 423.7A, the lessor shall list the lease price of the vehicle on the application form.

400.3(15) Affidavit of correction. As provided in Iowa Code section 321.23A, the county treasurer or the department may accept an affidavit of correction on a form prescribed by the department.

a. The affidavit may be used only to correct those errors, erasures or alterations listed on the affidavit.

b. The affidavit must contain the signatures of all parties to the original error, erasure or alteration.

c. Only an original, notarized affidavit shall be accepted.

d. The affidavit must be surrendered with the document that contains the error, erasure or alteration to be corrected.

e. The affidavit may be accepted to correct errors, erasures or alterations on either an Iowa title or a foreign title.

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23 to 321.26, 321.31, 321.34, 321.46, 321.109, 321.122 and 423.7A.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.4(321) Supporting documents required. This rule describes the basic supporting documents to be submitted by an applicant for a certificate of title or registration.
400.4(1) New vehicle. If application is made for a new vehicle, a manufacturer’s certificate of origin, properly assigned to the applicant, shall be submitted. A manufacturer’s certificate of origin shall not be accepted if the assignment to the applicant is made by any person other than the manufacturer, importer, distributor or a licensed motor vehicle dealer franchised to sell that line make of vehicle.

   a. The first person, including a dealer not franchised to sell that line make of vehicle, who is assigned the manufacturer’s certificate of origin shall obtain a certificate of title and register the vehicle.

   b. An uncanceled security interest noted on the reverse side of a manufacturer’s certificate of origin (MCO) shall be noted as a separate security interest on the certificate of title, in addition to any security interest acknowledged by the applicant, unless the applicant indicates in the security interest area on the title application that the security interest is the same as the one noted on the reverse side of the MCO.

   c. If a 1980 or subsequent model year vehicle is manufactured by a person other than the original manufacturer, both the original manufacturer’s certificate of origin and the final manufacturer’s certificate of origin shall be submitted. All assignments or reassignments of ownership of the vehicle shall be made on the final manufacturer’s certificate of origin. The face of the original manufacturer’s certificate of origin shall be stamped in bold type with the statement: “Final manufacturer’s MCO has been issued on this vehicle.” The original manufacturer’s vehicle identification number shall be listed on the final manufacturer’s certificate of origin.

400.4(2) Used vehicle registered or titled in this state. The last issued certificate of title, properly assigned to the applicant, shall be submitted. An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

400.4(3) Used vehicle from a foreign jurisdiction. If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

   a. A security interest, noted on the face of the foreign certificate of title, which has not been canceled, shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant.

   b. A certificate of title issued in a foreign jurisdiction may be assigned to a motor vehicle dealer in another jurisdiction, and the dealer may reassign the certificate of title to the applicant. An assignment or reassignment form issued by a foreign jurisdiction may be used with a foreign title to complete an assignment or reassignment of ownership from a foreign motor vehicle dealer to the applicant, provided the ownership chain is complete.

   c. An Iowa licensed motor vehicle dealer who acquires a vehicle registered in another state or country may reassign the foreign certificate of title to the applicant, as provided in Iowa Code subsection 321.48(2) and rule 761—400.27(321,322).

   d. A person who registers a foreign vehicle under Iowa Code subsection 321.23(3) shall be issued a nontransferable-negotiable registration. To transfer ownership of the vehicle, the owner must first obtain an Iowa certificate of title except as follows: If ownership is transferred to an Iowa licensed motor vehicle dealer as provided in Iowa Code subsection 321.23(3), the foreign certificate of title may be assigned to the dealer; the owner is not required to obtain an Iowa title. The dealer may then reassign the foreign title, as provided in Iowa Code subsection 321.48(2) and rule 761—400.27(321,322).

   e. If the vehicle was not subject to the issuance of a certificate of title in the foreign jurisdiction, the registration document issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

      (1) If the foreign registration document is not issued in the applicant’s name and does not contain an assignment of ownership form, a bill of sale conveying ownership from the owner as listed on the foreign registration document to the applicant shall be submitted with the foreign registration document.

      (2) Upon receipt of the foreign registration document, the county treasurer shall issue a nontransferable—nonnegotiable registration unless the foreign registration document has been approved by the department.
(3) Acceptance of the foreign registration document shall be determined by the department on an individual basis, if the county treasurer of the county where the certificate of title is to be issued cannot determine whether the document is acceptable.

f. If a trailer weighing 2000 lbs. or less is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, a bill of sale conveying ownership to the applicant, if acquired by a resident from a nonresident, or an affidavit of ownership signed by the applicant, if the applicant is establishing residence in this state, shall be submitted.

g. If a motor vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, the bonding procedures as provided in Iowa Code section 321.24 shall be followed.

400.4(4) Used vehicle acquired by a resident of this state from a government agency. If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the government bill of sale, Form 97 or 97A, properly assigned to the applicant. If the vehicle was acquired from the state of Iowa or a subdivision of government the applicant shall surrender the Iowa certificate of title issued in the name of the agency, properly assigned to the applicant.

400.4(5) Manufactured or mobile home. If the vehicle described on the application is a manufactured or mobile home with an Iowa title, the applicant shall submit a tax clearance form to show that no taxes are owing, unless the title has been issued to a manufactured or mobile home retailer licensed under Iowa Code chapter 103A. The form may be obtained by any owner of record of the manufactured or mobile home from the county treasurer.

400.4(6) Vehicle acquired by a resident of this state by operation of law. If the vehicle was acquired by the applicant by operation of law as specified in Iowa Code section 321.47, the last issued certificate of title shall be submitted by the applicant, or when that is not possible, presentation of satisfactory proof of the applicant’s ownership and right of possession to the vehicle shall be submitted by the applicant. Proof of ownership may consist of a foreclosure sale affidavit, a gift, or storage lien affidavit, affidavit of death intestate, abandoned vehicle sales receipt, peace officers bill of sale or court order. See also subrules 400.14(4) and 400.14(5).

400.4(7) Foreign ownership document issued in a language other than English. A foreign ownership document issued in a language other than English may be required to be reproduced in writing in English and certified to be a correct translation by a person qualified to translate that particular language. The English translation and certification shall be submitted with the foreign ownership document.

400.4(8) Titles from foreign jurisdictions.

a. Except as provided in paragraph “b” of this subrule, a certificate of title issued by a foreign jurisdiction shall not be accepted if the title contains an alteration or erasure.

b. An affidavit of correction form issued by a foreign jurisdiction that corrects the certificate of title issued by the foreign jurisdiction shall be accepted only for the reason listed on the affidavit of correction form. However, acceptance of an affidavit of correction form that corrects an odometer statement or a designation shall be determined by the department on an individual basis.

400.4(9) Applications in the name of trusts. An application in the name of a trust shall be accompanied by a copy of all documents creating or otherwise affecting the trust or the certification of trust as defined in Iowa Code section 633A.4604. The application shall be signed by each trustee unless otherwise specified in the trust agreement or the certification of trust. The signature shall be followed by the words “as trustee.”

400.4(10) Supporting document retained by county treasurer. All supporting documents shall be retained by the county treasurer.

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.30, 321.31, 321.45 to 321.50, and 321.67.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.5(21) Where to apply for registration or certificate of title.

400.5(1) Except as otherwise provided, application for the registration of a vehicle or a certificate of title for a vehicle, or transfers thereof, shall be made to the county treasurer as described in Iowa Code
chapter 321. When none of the primary users of a non-resident-owned vehicle are located in Iowa, the vehicle may be registered by the county treasurer of any county.

400.5(2) Application shall be made to the department’s office of vehicle services for the following:

a. Titling and registration of vehicles owned by the government. This requirement does not apply to manufactured or mobile homes subject to a public bidder sale as explained in Iowa Code subsection 321.46(2).

b. Registration of vehicles leased by the government for a period of 60 days or more.

c. Registration of urban and regional transit system buses.

d. Registration of fire trucks not owned and operated for a pecuniary profit.

e. Registration of certain authorized emergency vehicles owned and operated by nonprofit organizations.

f. Registration of private school buses.

g. Registration of vehicles under the provisions of Iowa Code subsection 321.23(4), relating to restricted-use vehicles.

400.5(3) Application for a certificate of title for a vehicle subject to proportional registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department’s office of motor carrier services. The office of motor carrier services may be contacted at the addresses listed in subrule 400.6(2) or by telephone at (515)237-3264.

400.5(4) Application for proportional registration shall be made to the department’s office of motor carrier services. See 761—Chapter 500.

This rule is intended to implement Iowa Code sections 321.18 to 321.23, 321.46(2), and 321.170.

761—400.6(17A) Addresses, information and forms. Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to 321.173 may be obtained from the county treasurer or from:

400.6(1) Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

400.6(2) Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382.

400.6(3) The Internet at the following address: http://www.iowadot.gov/mvd.

This rule is intended to implement Iowa Code section 17A.3.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.7(321) Information appearing on title or registration. In addition to the requirements of Iowa Code sections 321.24, 321.52, 321.69, 321.71 and 322G.12, a certificate of title or registration receipt or both shall contain the following information when applicable:

400.7(1) Registration expiration date.

400.7(2) Registration month, as explained in rule 761—400.3(321).

400.7(3) Name and address of last titled owner.

400.7(4) Description of the vehicle, including the following items. These items may be represented on the title and registration by code letters or numbers.

a. Vehicle identification number.

b. Type, such as automobile, trailer, truck, etc.

c. Style.

d. Make, model, and model year.

e. Number of engine cylinders.

f. Color.

g. Weight and registered gross weight.

h. The square footage of floor space of a manufactured or mobile home or travel trailer, as determined by measuring the exterior.

i. The odometer mileage and whether the mileage is “actual,” “not actual,” or “exceeds mechanical limits.”
400.7(5) Previous Iowa title number or the name of the foreign jurisdiction if the previous title is a foreign title.
400.7(6) Plate number and previous registration number.
400.7(7) List price or value.
400.7(8) Penalties and title, registration and security interest receipt numbers.
400.7(9) The following phrase stamped on the reassignment portion of a manufactured or mobile home title: “Dealer reassignment not authorized on this certificate of title.”
400.7(10) The designation required by 761—Chapter 405. A vehicle may have no more than one designation. The referenced rules explain which designation takes precedence when more than one designation could apply.
400.7(11) Full legal name of owner.
   a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall submit to the county treasurer on a form prescribed by the department an application for a certificate of title or registration for a vehicle. The application must be accompanied by one of the following documents:
      (1) Court order for a name change. The court order must contain the full name, date of birth, and court seal.
      (2) Divorce decree.
      (3) Marriage certificate.
   b. Paragraph “a” of this subrule does not apply to owners that are firms, associations, corporations, or trusts.

This rule is intended to implement Iowa Code sections 321.24, 321.31, 321.40, 321.45, 321.52, 321.69, 321.71, 321.124 and 322G.12.
[ARC 0136C; IAB 5/30/12, effective 7/4/12]

761—400.8(321) Release form for cancellation of security interest.
400.8(1) A secured party may use a form prescribed by the department to note the cancellation of a security interest.
400.8(2) The secured party may also note the cancellation in a statement written on the secured party’s letterhead if the statement contains the following information: county that issued the title; title number; security interest number; vehicle identification number; vehicle owner’s name; secured party’s name, street address, city, state and ZIP code; date the security interest was canceled; and signature of an authorized representative of the secured party.
400.8(3) The secured party shall forward the original cancellation form or statement to the department or to the county treasurer of the county where the title was issued. Facsimiles and photocopies are not acceptable.
400.8(4) The secured party shall note the cancellation on the face of the title, attach a copy of the release form to the title as evidence of cancellation, and forward the title to the next secured party or, if there is no other secured party, to the person designated by the owner or, if there is no person designated, to the owner.

This rule is intended to implement Iowa Code section 321.50.

761—400.9(321) Security interest notation, 30-day limit. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.10(321) Assignment of security interest. A security interest noted on a certificate of title may be assigned to another secured party without losing the seniority of the security interest by complying with the procedure in Iowa Code section 321.50 or with the following procedure:
400.10(1) Notice of assignment. The secured party listed on the title certificate shall make the following notation in the cancellation portion of the certificate of title where security interest is noted “Assigned to (name of assignee).” The date, name of secured party and signature of the person noting the assignment shall be completed in the cancellation portion pertaining to the security interest.
400.10(2) Application for notation of security interest. The assignee shall complete an application for notation of a security interest on the form provided by the department. The application form shall be signed by the assignee in the space where the signature of the owner is ordinarily required. The signature of the owner shall not be required on an assignment of a security interest.

400.10(3) Submission of documents to county treasurer. The certificate of title, application for notation of security interest and appropriate notation fee shall be submitted to the county treasurer of the county where the certificate of title was issued or will be issued.

a. If there are additional security interests noted on the certificate of title, the seniority of the assignee’s security interest may be preserved by issuance of a certificate of title in lieu of the original, on which the assignee’s security interest shall be noted in the same seniority as the assignor’s.

b. A receipt for notation of security interest form shall be processed and the new receipt number shall be listed in the appropriate space provided. The original notation date shall also be listed and the words “by assignment” shall be listed following the name of the assignee.

This rule is intended to implement Iowa Code section 321.50.

761—400.11(321) Sheriff’s levy, restitution lien, and forfeiture lien noted as security interests.

400.11(1) A sheriff’s levy may be noted as a security interest on a certificate of title if the sheriff so desires. To apply for a notation of a security interest, the sheriff or the sheriff’s deputy shall complete an application form prescribed by the department. The sheriff or sheriff’s deputy shall sign the application in the space where the signature of the owner is ordinarily required. The signature of the owner is not required. The appropriate notation fee shall be submitted with the application form to the county treasurer of the county where the certificate of title was issued. If the certificate of title is not surrendered with the application, the county treasurer shall notify the holder of the certificate of title in the manner prescribed in Iowa Code section 321.50.

400.11(2) A restitution or forfeiture lien may be noted as a security interest on a certificate of title if the county attorney so desires. To apply for a notation of a security interest, the county attorney or designee shall complete an application form prescribed by the department. The county attorney or designee shall sign the application in the space where the signature of the owner is ordinarily required. The signature of the owner is not required. A lien notation fee is not required. If the certificate of title is not surrendered with the application, the county treasurer shall notify the holder of the certificate of title in the manner prescribed in Iowa Code section 321.50.

This rule is intended to implement Iowa Code section 321.50 and chapter 809A.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.12(321) Replacement certificate of title.

400.12(1) When a certificate of title is lost, destroyed or altered, the owner or lienholder shall apply for a replacement certificate of title. If a security interest noted on the certificate of title was released by the secured party on a separate form, but the secured party has not delivered the original certificate of title to the appropriate party, the owner may apply for a replacement certificate of title as provided in Iowa Code section 321.42.

400.12(2) Application for a replacement certificate of title shall be made on a form prescribed by the department. All owners of the vehicle as listed on the certificate of title shall sign the application form. If an owner is deceased, the signatures and documents specified in subrules 400.14(4) and 400.14(5) shall be required in lieu of the deceased owner’s signature. A person entitled to vehicle ownership under the laws of descent and distribution shall sign the required forms and shall insert the words “heir at law” following the signature.

This rule is intended to implement Iowa Code section 321.42.

761—400.13(321) Bond required before title issued. An applicant for a certificate of title who cannot provide the supporting documents required in rule 761—400.4(321) shall be required to file a bond as a condition to obtaining a title and registration plates.
400.13(1) Procedures. This subrule describes the procedures to be followed to obtain a “bonded” certificate of title. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall submit a bond application to the office of vehicle services on a form prescribed by the department. The application shall be accompanied by evidence of ownership of the vehicle.

b. The department shall search the state files to determine if there is an owner of record for the vehicle and if the vehicle has been reported stolen or embezzled.

(1) If a record is found, the applicant shall complete a request for release of personal information form explaining that the applicant is the current owner and is requesting a duplicate title. The department shall mail the release by first-class mail to the owner of record, at the owner’s last-known address.

(2) If the department receives no response from the owner of record within ten days after the date of mailing or the owner of record does not want the owner’s personal information released, the department will continue processing the bond application.

c. If the department determines that the applicant has complied with this rule, that there is sufficient evidence to indicate that the applicant is the rightful owner, and that there is no known unsatisfied security interest, the department shall determine the current value of the vehicle and notify the applicant to deposit cash or file a surety bond with the department in an amount equal to one and one-half times the current value of the vehicle.

d. After the cash deposit or surety bond has been deposited, a motor vehicle investigator of the department may examine the vehicle to verify the information submitted on the application is correct. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. After verifying the information, the investigator shall give to the applicant a document authorizing the county treasurer to issue a title for and register the vehicle. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator shall authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator shall also affix an assigned identification number to the vehicle and give to the applicant an assigned vehicle identification number (VIN) form.

e. The applicant shall then submit the authorization document and, if applicable, the VIN form to the county treasurer and make application for a certificate of title and registration.

400.13(2) Disapproval. If the department determines that the applicant has not complied with this rule, that there is sufficient evidence to indicate that the applicant may not be the rightful owner, or that there is an unsatisfied security interest, then the department shall not authorize issuance of a certificate of title or registration receipt and shall notify the applicant in writing of the reason(s).

400.13(3) Junked vehicle. A certificate of title shall not be reinstated for a vehicle that has been issued a junking certificate unless the junking certificate was issued in error, as explained in rule 761—400.23(321), or the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code sections 321.24 and 321.52.

[ARC 9848B, IAB 9/8/10, effective 10/13/10; ARC 0136C, IAB 5/30/12, effective 7/4/12]

761—400.14(321) Transfer of ownership. The following procedures shall apply for all titling and registration purposes:

400.14(1) Transfer of vehicle owned by two or three persons.

a. If the names of the owners of a vehicle on the certificate of title or on the manufacturer’s certificate of origin are joined by the word “or,” as in “John Doe, Jane Doe or Mary Doe,” then the signature of any of these owners is sufficient to transfer title or to junk the vehicle.

b. If ownership of a vehicle is stated as a name or names followed by the words “Doing Business As” or the initials “DBA” and another name, only the name of an owner followed by the signature of an authorized representative of an owner is required to transfer title or to junk the vehicle.
EXAMPLE: Ownership is stated as “John Smith and Mary Smith DBA Smith Repair.” Jane Doe is an authorized representative of John Smith and Mary Smith. To transfer ownership, Jane Doe may sign as “John Smith and Mary Smith DBA Smith Repair, by Jane Doe,” “John Smith and Mary Smith by Jane Doe,” or Smith Repair by Jane Doe.”

c. In all other cases the signature of each named owner is required.

400.14(2) Assignment of title to two or three persons. If a certificate of title or a manufacturer’s certificate of origin is assigned to two or three persons with their names joined by the word “or,” as in “John Doe, Jane Doe or Mary Doe,” then a certificate of title may be issued to any one of these persons, or to any two or all three of these persons with their names joined by the word “or.” However, a certificate of title shall only be issued to persons who have signed the application for title.

400.14(3) Organizational ownership.

a. When a vehicle is owned by a partnership, corporation, association, governmental unit, or private organization, the signature of its authorized representative is required.

b. When a vehicle is owned by a trust, the signature of each trustee is required, unless otherwise specified in the trust agreement or the certification of trust as defined in Iowa Code section 633A.4604. The signature shall be followed by the words “as trustee.” In addition, the title shall be accompanied by a copy of all documents creating or otherwise affecting the trust or the certification of trust.

400.14(4) Death with a will. When ownership is transferred according to a decedent’s will, a certified copy of the court order or the letter of appointment appointing the person assigning the title as executor of the will shall be required.

400.14(5) Death without a will. When ownership is transferred from a decedent without a will and there is no administration of the estate, an affidavit of death intestate form signed by the clerk of court shall be required. When ownership is transferred from a decedent without a will but there is an administration of the estate, a copy of the court order or the letter of appointment appointing the person assigning the title as administrator shall be required.

400.14(6) Power of attorney. An attorney in fact may act for the owner(s) if the appointment is shown on a power of attorney form. Power of attorney forms are available from the department but other forms may be accepted if they contain all necessary information. The power of attorney form or a certified true copy shall be kept by the county treasurer and attached to the document to which it applies.

This rule is intended to implement Iowa Code sections 321.20, 321.24, 321.45, 321.47, 321.49, and 321.67.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.15(321) Cancellation of a certificate of title.

400.15(1) The department shall cancel a certificate of title when authorized by any provision of law or when it has reasonable grounds to believe that the title has not been surrendered to the county treasurer as provided in Iowa Code section 321.52 or when the vehicle has been stolen or embezzled from the rightful owner or seized under the provisions of Iowa Code section 321.84, and the person holding the certificate of title, purportedly issued for the vehicle, has no immediate right to possession of the vehicle.

400.15(2) The decision to issue a new certificate of title or to allow the previous title to be reinstated through a replacement title application process or to take any other action regarding ownership of the vehicle for which the current title has been canceled shall be determined after an investigation and recommendation by a motor vehicle investigator of the department.

This rule is intended to implement Iowa Code section 321.101.

761—400.16(321) Application for certificate of title or original registration for a specially constructed, reconstructed, street rod or replica motor vehicle.

400.16(1) Definitions applicable to this rule.

a. “Ownership document for the vehicle” means the certificate of title, the manufacturer’s certificate of origin, the junking certificate, or other evidence of ownership acceptable to the department.

b. “Ownership documents for essential parts” means bills of sale for all essential parts used to construct or reconstruct the vehicle. Each bill of sale shall contain a description of the part, the
manufacturer’s identification number of the part, if any, and the name, address, and telephone number of the seller.

400.16(2) Procedures. This subrule describes the procedures for obtaining department approval to title and register a specially constructed, reconstructed, street rod or replica motor vehicle. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall apply to the county treasurer for a certificate of title and registration. The county treasurer, upon receiving an application that indicates the vehicle is a specially constructed, reconstructed, street rod or replica motor vehicle, shall forward the application to a motor vehicle investigator of the department.

b. The investigator shall contact the applicant and schedule a time and place for an examination of the vehicle and the ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, autocycles, trucks, truck tractors, road tractors or trailer-type vehicles.

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator shall approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator shall also give to the applicant an assigned vehicle identification number (VIN) form that the applicant shall submit with the application to the county treasurer.

(2) If the vehicle is a passenger-type motor vehicle, the department shall determine its weight and value. The vehicle weight shall be fixed at the next even 100 pounds above the actual weight of the vehicle fully equipped, as provided in Iowa Code section 321.162. The weight and value shall constitute the basis for determining the annual registration fee under Iowa Code section 321.109, except as provided in Iowa Code section 321.113.

(3) The applicant shall then submit the approved application, ownership document for the vehicle, and VIN form to the county treasurer and continue with the regular title and registration process.

400.16(3) Disapproval. If the department determines that the vehicle does not comply with 761—Chapter 450, that the integral parts or components have not been identified as to ownership, or that the application has not been completed properly, then the department shall not approve the vehicle for titling and registration.

400.16(4) Model year. The model year of a specially constructed or reconstructed motor vehicle is the year the vehicle is approved by the department as a specially constructed or reconstructed motor vehicle.

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.52, 321.109 and 321.162.

[ARC 9048B, IAB 9/8/10, effective 10/13/10; ARC 0136C, IAB 5/30/12, effective 7/4/12; ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—400.17(321) Remanufactured vehicle. Rescinded IAB 11/23/05, effective 12/28/05.

761—400.18(321) Rescinded IAB 3/26/97, effective 4/30/97.

761—400.19(321) Temporary use of vehicle without plates or registration card.

400.19(1) Temporary use of vehicle without plates. A person who acquires a vehicle which is currently registered or in a dealer’s inventory at the time of sale and who does not possess registration plates which may be assigned to and displayed on the vehicle may operate or permit the operation of the vehicle not to exceed 30 days from the date of purchase or transfer without registration plates displayed thereon, if ownership evidence is carried in the vehicle.
400.19(2) TEMPORARY USE OF VEHICLE WITHOUT REGISTRATION CARD. A person who acquires a vehicle which is currently registered or in a dealer’s inventory at the time of sale and who has possession of plates which may be attached to the vehicle acquired may operate the operation of the vehicle not to exceed 45 days from the date of purchase or transfer without a registration card, if ownership evidence is carried in the vehicle.

400.19(3) OWNERSHIP EVIDENCE. Ownership evidence under this rule shall consist of the certificate of title or registration receipt, or a photocopy thereof, properly assigned to the person who has acquired the vehicle, or a bill of sale conveying ownership of the vehicle to the person who has acquired the vehicle. The ownership evidence shall be shown to any peace officer upon request.

This rule is intended to implement Iowa Code sections 321.25, 321.33 and 321.46.

761—400.20(321) REGISTRATION OF MOTOR VEHICLE WEIGHING 55,000 POUNDS OR MORE. When applying for registration or renewal for registration for a motor vehicle weighing 55,000 pounds or more, the owner shall present to the department or to the county treasurer proof of compliance with the federal heavy vehicle use tax required by 26 U.S.C. Section 4481 and 26 CFR Part 41.

400.20(1) IF THE MOTOR VEHICLE IS USED EXCLUSIVELY IN THE TRANSPORTATION OF HARVESTED FOREST PRODUCTS, THE OWNER MAY PRESENT A WRITTEN STATEMENT CERTIFYING THAT USAGE AND THE USAGE WILL BE RECORDED.

400.20(2) IF THE MOTOR VEHICLE IS USED PRIMARILY FOR FARMING PURPOSES, THE OWNER MAY PRESENT A WRITTEN STATEMENT CERTIFYING THAT USAGE AND THE USAGE WILL BE RECORDED.

This rule is intended to implement Iowa Code sections 307.30 and 321.20.

761—400.21(321) REGISTRATION OF VEHICLES ON A RESTRICTED BASIS. The department may register a vehicle which does not meet the equipment requirements of Iowa Code chapter 321, due to the particular use for which it is designed or intended. Registration may be accomplished upon payment of the appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition.

400.21(1) OPERATION OF THE VEHICLE MAY BE RESTRICTED TO A ROADWAY TO WHICH A SPECIFIC LAWFUL SPEED LIMIT APPLIES, AS SPECIFIED IN IOWA CODE SECTION 321.285, IF THE MAXIMUM SPEED OF THE VEHICLE IS SUCH THAT THE OPERATION OF THE VEHICLE WOULD IMPED OR BLOCK THE NORMAL AND REASONABLE MOVEMENT OF TRAFFIC.

400.21(2) THE DEPARTMENT MAY ALSO RESTRICT THE OPERATION OF THE VEHICLE TO DAYLIGHT HOURS IF OPERATION OF THE VEHICLE DURING HOURS OTHER THAN DAYLIGHT WOULD CREATE A HAZARD.

400.21(3) A CERTIFICATE OF RESTRICTION SHALL BE ISSUED IN CONJUNCTION WITH REGISTRATION OF THE VEHICLE, LISTING THE RESTRICTIONS THAT APPLY TO THE OPERATION OF THE VEHICLE.

a. Registration laws applicable to motor vehicles in general shall also apply to vehicles registered under a restricted registration.

b. The department may approve exceptions to those equipment requirements of Iowa Code chapter 321 which cannot be met due to the particular use for which the vehicle is designed or intended.

400.21(4) THE DEPARTMENT SHALL NOT REGISTER AN ALL-TERRAIN VEHICLE. THE DEPARTMENT SHALL NOT REGISTER A VEHICLE BUILT ON OR AFTER JANUARY 1, 1968, UNLESS IT WAS MANUFACTURED PRIMARILY FOR USE ON PUBLIC STREETS, ROADS AND HIGHWAYS EXCEPT A VEHICLE OPERATED EXCLUSIVELY BY A PERSON WITH A DISABILITY, WHICH MAY BE REGISTERED IF THE DEPARTMENT, IN ITS DISCRETION, DETERMINES THAT THE VEHICLE IS NOT IN AN Unsafe CONDITION. THIS SUBRULE DOES NOT APPLY TO A SPECIALY CONSTRUCTED, RECONSTRUCTED, STREET ROD OR REPLICA MOTOR VEHICLE AS DEFINED IN IOWA CODE SECTION 321.1.

This rule is intended to implement Iowa Code sections 321.1 and 321.234A and subsections 321.23(4), 321.30(2), and 321.101(1).

[ARC 9048B, IAB 9/8/10, EFFECTIVE 10/13/10]

761—400.22(321) TRANSFERS OF OWNERSHIP BY OPERATION OF LAW. When ownership of a vehicle is transferred by operation of law under Iowa Code section 321.47, the following, in addition to rule 761—400.4(321), shall apply:

400.22(1) THE NEW CERTIFICATE OF TITLE AND REGISTRATION SHALL BE ISSUED, UPON RECEIPT OF THE PROPER DOCUMENTATION, BY THE COUNTY TREASURER OF THE COUNTY WHERE THE TRANSFEE RESIDES.
400.22(2) If the vehicle is not currently registered in this state, the registration fee and penalties due shall be computed in accordance with the following:
   a. If the vehicle is ordered confiscated or forfeited by a court under a judgment or forfeiture, the fee shall be computed on the remaining unexpired months in the registration year from the date of the court order.
   b. If the vehicle is sold on a peace officer’s bill of sale as an unclaimed, stolen, embezzled or abandoned vehicle, or as a vehicle seized under Iowa Code section 321.84, the fee shall be computed on the remaining unexpired months in the registration year from the date of the sale.
   c. If the vehicle is sold or transferred under a judgment or order entered by a court in a civil action or proceeding, or is transferred under any provision of Iowa Code section 321.47 which is not covered in this subrule, the fee shall include any delinquent fees which have accrued during previous registration periods and accrued penalties. Penalties shall continue to accrue until paid.
   d. If the vehicle was last titled or registered in a foreign state, the fee shall be based on the month the vehicle becomes subject to registration in this state, except as provided in paragraphs 400.22(2)“a” and “b” above.

This rule is intended to implement Iowa Code sections 321.47, 321.105, 321.106, 321.134, and 321.135.

761—400.23(321) Junked vehicle.

400.23(1) Junking certificate. The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate in accordance with Iowa Code subsection 321.52(3).

400.23(2) Retitling a junked vehicle. The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate only if the department determines that the junking certificate was issued in error.
   a. The reasons a junking certificate was issued in error include but are not limited to the following:
      (1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.
      (2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.
      (3) The owner intended to apply for a salvage title under Iowa Code subsection 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner’s original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.
   b. If the department determines that the junking certificate was issued in error, the department shall authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.
   c. If the department determines that the junking certificate was not issued in error and denies the application for reinstatement of the certificate of title for the vehicle, the owner may apply for a certificate of title under the bonding procedure in rule 761—400.13(321) if the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code subsection 321.52(3).

761—400.24(321) New vehicle registration fee. The registration fee shall be computed on the month of purchase of a new vehicle, except that the registration fee on a new vehicle acquired outside of this state shall be based on the month that the vehicle was brought into Iowa.

This rule is intended to implement Iowa Code sections 321.105 and 321.135.
**761—400.25(321) Fees established by the department.** If the department cannot obtain the retail list price and weight for a particular motor vehicle model registered under Iowa Code subsection 321.109(1), the department shall determine a list price and weight.

This rule is intended to implement Iowa Code sections 321.109, 321.157 and 321.159.

**761—400.26(321) Anatomical gift.** Voluntary contributions collected by the county treasurer or the department to the anatomical gift public awareness and transplantation fund shall be in whole dollar amounts. The county treasurer and the department shall remit contributions collected to the department of public health quarterly.

This rule is intended to implement Iowa Code section 321.44A.

**761—400.27(321,322) Vehicles held for resale or trade by dealers.** A motor vehicle dealer, as defined in Iowa Code section 321.1, is authorized to hold a motor vehicle for resale or trade under the following conditions.

**400.27(1) Assignment to dealer.** The certificate of title or manufacturer’s certificate of origin for the vehicle shall be assigned to the dealer by the seller. The seller shall complete the assignment portion of the form, including the date of sale or trade and the name and address of the dealer, and shall sign the form. The date of the sale or trade shown in the assignment portion of the form shall be the date the dealer acquired the vehicle.

**400.27(2) New certificate of title and registration not required.**

a. A motor vehicle currently registered in Iowa may be held by a dealer without obtaining a new certificate of title or a new registration if the dealer holds for that vehicle a certificate of title or a manufacturer’s certificate of origin properly assigned to the dealer.

b. A motor vehicle may also be held by a dealer without obtaining a new certificate of title or a new registration if the dealer has a title from a state that permits its titles to be reassigned by Iowa dealers and if a vacant reassignment space is available on the title.

**400.27(3) New certificate of title required.** A dealer shall obtain a new certificate of title, but is not required to pay registration fees for a vehicle if:

a. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers.

b. The vehicle was assigned to the dealer using an affidavit of foreclosure form prescribed by the department or issued by a foreign jurisdiction.

c. The reassignment area of the certificate of title has been used.

d. Reserved.

e. The vehicle registration fee was delinquent in Iowa at the time the vehicle was acquired by the dealer. The delinquent fees and penalty shall be paid by the dealer from the first day the registration was due to the month the application for title is submitted.

f. In accordance with 761—Chapter 405, the dealer is required to obtain a salvage certificate of title.

**400.27(4) New certificate of title and registration fee required.** A dealer shall obtain both a new certificate of title and pay a registration fee for a vehicle if:

a. The vehicle has a foreign certificate of title but has never been registered and the dealer is not licensed under Iowa Code chapter 322 to sell that line make of vehicle. The registration fee due shall be prorated for the remaining unexpired months of the dealer’s registration year.

b. The vehicle was placed in storage by the previous owner. The registration fee due shall be a full registration year fee.

c. The vehicle has been registered in a foreign state or country that does not permit its titles to be reassigned by Iowa dealers or all reassignment spaces on the title are full and the application for a new certificate of title is submitted more than 30 days after the date the vehicle entered Iowa. The registration fee due shall be prorated for the remaining unexpired months of the dealer’s registration year.

d. The vehicle was in the dealer’s inventory and the dealer’s license was revoked as provided in Iowa Code chapter 322 or 322C or surrendered in lieu of revocation. The dealer shall obtain title and
registration within 30 days from the date of revocation or surrender of the license. The registration fee
due shall be prorated for the remaining unexpired months of the registration year.

400.27(5) Registration fee required. A vehicle owned by a dealer and used as a work or service
vehicle, or offered for lease, rent or hire, shall become subject to a registration fee in the month that
the vehicle is first used for that purpose. The registration fee shall be due annually unless the vehicle is
transferred to the dealer’s inventory. To transfer the vehicle, the dealer shall surrender the registration
plates that were issued for the vehicle.

400.27(6) Violations.  
a. Failure to comply with this rule is a violation of Iowa Code subsection 321.104(2).
b. Failure to obtain a certificate of title when required shall result in a title penalty of $10, as
specified in Iowa Code subsection 321.49(1).
   This rule is intended to implement Iowa Code sections 321.45, 321.46, 321.48, 321.49, 321.67,
   321.70, 321.104 and chapter 322.
   [ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.28(321) Special trucks. The owner of a truck tractor registered as a special truck shall certify
to the owner’s county treasurer annually at the time of renewal that the truck tractor is not operated more
than 15,000 miles annually.

   This rule is intended to implement Iowa Code subsection 321.1(76) and section 321.121.

761—400.29(321) Vehicles previously registered under Iowa Code chapter 326. Rescinded IAB
11/23/05, effective 12/28/05.

761—400.30(321) Registration of vehicles registered in another state or country.
   400.30(1) The registration fee for a vehicle from another state or country shall be due in the month
that the vehicle becomes subject to registration in Iowa.
   400.30(2) A vehicle registered in another state or country shall become subject to registration in
Iowa and payment of the Iowa registration fee in:
   a. The month of sale or transfer to an Iowa resident, or
   b. The month that a nonresident owner establishes Iowa residency or accepts employment in Iowa
of 90 days duration or longer. The county treasurer or the department may require from the applicant a
written statement giving the date that the applicant established residency in Iowa.
   400.30(3) Rescinded IAB 2/6/02, effective 3/13/02.
   This rule is intended to implement Iowa Code sections 321.18, 321.20, 321.53 to 321.55, 321.101
and 321.135.

761—400.31 Rescinded, effective 12/1/83.

761—400.32(321) Vehicles owned by nonresident members of the armed services.
   400.32(1) A vehicle owner who is a nonresident and a member of the armed services shall not be
required to register the vehicle in Iowa if it is properly registered in the person’s state of residence.
   400.32(2) A vehicle owner who is a nonresident and a member of the armed services may register
the vehicle in Iowa under the following conditions:
   a. The vehicle is owned entirely by nonresidents.
   b. The fee for a passenger-type vehicle registered under Iowa Code section 321.109 shall be based
only on the weight of the vehicle; the part of the fee based on value shall be excluded. The fees for all
other vehicles shall be determined as specified in Iowa Code chapter 321.
   c. The application for vehicle registration shall include a certification by the person’s commanding
officer of the person’s state of residence and assignment to Iowa.
   400.32(3) If ownership of a passenger-type vehicle is transferred to another person, the vehicle shall
be subject to registration in Iowa.
   This rule is intended to implement Iowa Code sections 321.53 to 321.55 and 321.109.

761—400.34(321) Multipurpose vehicle registration fee. Rescinded IAB 11/7/07, effective 12/12/07.

761—400.35(321) Registration of vehicles equipped for persons with disabilities. The registration fee shall be reduced for an automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less with permanent equipment for assisting a person with a disability or for an automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less used by a person who uses a wheelchair as the person’s only means of mobility. To qualify for the reduction, the owner of the vehicle must provide a written self-certification at the first registration and at each renewal:

400.35(1) That the automobile, multipurpose vehicle, or motor truck with an unladen weight of 10,000 pounds or less has permanently installed equipment manufactured for and necessary to assist a person with a disability, as defined in Iowa Code section 321L.1, to enter or exit the vehicle, or

400.35(2) That the owner or a member of the owner’s household uses a wheelchair as the person’s only means of mobility.

This rule is intended to implement Iowa Code sections 321.109, 321.124 and 321L.1.
[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.36(321) Land and water-type travel trailers registration fee. The registration fee for trailer-type vehicles designed to be used as a travel trailer and for use upon water shall be registered as a travel trailer. The exterior measurements used to determine the registration fee shall not include any pen deck area or area occupied by a trailer hitch.

This rule is intended to implement Iowa Code sections 321.1 and 321.123.

761—400.37(321) Motorcycle or autocycle primarily designed or converted to transport property. A motorcycle or autocycle primarily designed or converted to transport less than 1000 pounds of property shall be registered as a motorcycle or autocycle. A motorcycle or autocycle primarily designed or converted to transport 1000 pounds of property or more shall be registered as a motor truck.

This rule is intended to implement Iowa Code sections 321.1 and 321.117.
[ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—400.38(321) Rescinded IAB 3/26/97, effective 4/30/97.


400.39(1) An automobile converted to a truck with a carrying capacity of 1000 pounds or more shall be registered as a reconstructed motor vehicle.

400.39(2) A vehicle manufactured as a truck tractor or motor truck shall not be registered as a motor home unless the vehicle has been substantially altered to change its type and mode of operation so that it is a reconstructed vehicle as defined in Iowa Code section 321.1.

This rule is intended to implement Iowa Code sections 321.23, 321.124 and 321.111.
[ARC 9048B, IAB 9/8/10, effective 10/13/10; ARC 0136C, IAB 5/30/12, effective 7/4/12]

761—400.40(321) Manufactured or mobile home converted to or from real property.

400.40(1) Conversion to real property. When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the assessor shall collect its vehicle certificate of title. The assessor shall note the conversion on the face of the certificate of title above the assessor’s signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record in the county treasurer’s office, cancel the record, keep the certificate of title and notify the department of the cancellation. The department shall cancel its record for that manufactured or mobile home.

400.40(2) Reconversion from real property.
a. When a manufactured or mobile home is reconverted from real property by adding a vehicular frame, the owner may apply to the county treasurer for a certificate of title.
b. The owner shall submit a record of existing liens obtained from a local abstracter. The record shall identify the owner of the property, list all liens and encumbrances against the property, and shall be signed by the abstracter.
c. The owner shall also submit written consent to the reconversion from any person holding a mortgage on the real property (mortgagee). An existing mortgage shall be noted as a security interest on the certificate of title.
d. The county treasurer shall submit written notice of the reconversion to the county assessor’s office.

This rule is intended to implement Iowa Code sections 321.1, 435.1, 435.26, 435.26A and 435.27.

761—400.41(321) Special registration plates. Rescinded IAB 3/1/95, effective 4/5/95.

761—400.42(321) Church bus registration fee. The church bus registration fee shall not apply if the bus is used in a manner other than provided by law or if ownership of the bus is transferred to a person who is not entitled to register the vehicle as a church bus.

400.42(1) When the church bus registration fee does not apply, the bus shall be registered under the provisions of Iowa Code section 321.122.

400.42(2) When Iowa Code section 321.122 applies and the bus is currently registered as a church bus, the registration fee shall be prorated for the remaining unexpired months of the registration year.

This rule is intended to implement Iowa Code sections 321.119 and 321.122.

761—400.43(321) Storage of vehicles.

400.43(1) The owner of a vehicle upon which the registration fee is not delinquent may surrender all registration plates for the vehicle to the county treasurer where the vehicle is registered and shall have the right to register the vehicle later upon payment of the annual registration fee due at the time of removal of the vehicle from storage. Payment of a registration fee shall not be required when the vehicle is removed from storage within the current registration year provided that registration fees have not been refunded. Plates that have been surrendered shall be destroyed. When a vehicle is removed from storage, the fee is $5 for a set of replacement plates.

400.43(2) The owner of a motor vehicle which is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code subsection 321.126(3), and subrule 400.43(1) does not apply.

This rule is intended to implement Iowa Code sections 321.126 and 321.134.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.44(321) Penalty on registration fees.

400.44(1) Monthly basis. The penalty on the delinquent payment of a registration fee shall be computed on a monthly basis, rounded to the nearest whole dollar.

400.44(2) Vehicle purchased. The penalty on the registration fee shall accrue from the first day of the month following the date of purchase, unless the application for a certificate of title is submitted within 30 days after the date of purchase.

400.44(3) Vehicle moved into Iowa. The penalty on the registration fee shall accrue on the first day of the month following 30 days from the date a vehicle is moved into Iowa.

400.44(4) When delinquency extends beyond the current year. When the penalty on a delinquent registration fee extends beyond the current year, the penalty shall continue to accrue until paid. Penalty shall only accrue on the fee applicable at the time the delinquency accrued and shall not be applicable to subsequent registration fees which have not been paid.

400.44(5) Statement of nonuse. If the owner of a vehicle, on which the registration fees have not been paid for more than three complete registration years, certifies to the county treasurer of the owner’s residence that the vehicle has not been moved or operated upon the highway since the year it was last
registered, the county treasurer may register the vehicle upon payment of the current year’s registration fee.

400.44(6) Waiver of penalties for military members. Registration penalties shall be waived as provided in Iowa Code section 321.134, subsection 5, if the owner provides a copy of an official government document verifying that the applicant is in the military service of the United States and has been relocated as a result of being placed on active duty on or after September 11, 2001.

This rule is intended to implement Iowa Code sections 321.39, 321.46, 321.47, 321.49, 321.134 and 321.135.

761—400.45(321) Suspension, revocation or denial of registration.

400.45(1) The department shall suspend or revoke registration and plates under Iowa Code section 321.101 when a written request is received from a peace officer or the county treasurer’s office that issued the registration and plates.

a. A request from a peace officer shall be submitted on a form prescribed by the department.

b. A request from a county treasurer’s office shall be signed by the county treasurer or designee.

400.45(2) When the registration of a vehicle has been revoked as provided in Iowa Code sections 321.101 and 321.101A, the registration fee and penalty shall accrue as if the plates had never been issued, unless waiver of registration fees and penalties is specifically provided for in Iowa Code chapter 321.

400.45(3) In accordance with Iowa Code sections 252J.8 and 261.126, the department shall suspend or deny the issuance or renewal of registration and plates upon receipt of a certificate of noncompliance from the child support recovery unit or the college student aid commission.

a. The suspension or denial shall become effective 30 days after notice to the vehicle owner and continue until the department receives a withdrawal of the certificate of noncompliance from the child support recovery unit or the college student aid commission.

b. If a person who is the named individual on a certificate of noncompliance subsequently purchases a vehicle, the vehicle shall be titled and registered, but the registration shall be immediately suspended.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126, 321.127, 321.101 and 321.101A.

761—400.46(321) Termination of suspension of registration. Upon termination of the suspension of registration of a vehicle, the county treasurer shall issue new plates for the vehicle. If the new plates replace a current series of plates, there shall be a replacement fee as provided in Iowa Code section 321.42. If the vehicle is not currently registered at the time the suspension is lifted, the registration fee and penalties due shall be determined as follows:

400.46(1) If the registration fee was delinquent at the time that the suspension became effective, the penalty shall continue to accrue on the registration fee until the suspension became lifted and the registration fee is paid. In addition, if the suspension was for failure to pay an additional registration fee, the additional registration fee shall be paid before the suspension is lifted.

400.46(2) If the registration fee was not delinquent when the suspension became effective and the suspension is lifted after the beginning of another registration year, the annual registration fee for that year shall be due in the month the suspension is lifted. The penalty shall accrue on the registration fee the first day of the month following the month that the suspension was lifted. The annual registration fee on a recovered stolen vehicle for which the registration has been suspended shall be prorated for the remaining unexpired months of the registration year.

400.46(3) If the registration fee was not delinquent at the time that the suspension became effective and the suspension is lifted during the same registration period, no additional registration fees shall be due unless the suspension was for failure to pay an additional registration fee, in which event the additional registration fee shall be paid before the suspension is lifted.

This rule is intended to implement Iowa Code sections 321.42, 321.105 and 321.134.
761—400.47(321) Raw farm products. A vehicle may be operated with a gross weight of 25 percent in excess of the gross weight for which it is registered when transporting a load of raw farm products or soil fertilizers under Iowa Code section 321.466. In addition, the following products shall be considered raw farm products. This list shall not be deemed conclusive and shall not exclude other commodities which might be considered raw farm products:

- Animals which are dead
- Berries, fresh
- Blood
- Corn, ear corn including hybrids
- Corn, shelled
- Corn, cobs
- Cream, separated
- Eggs, fresh or frozen in shell
- Flax
- Flaxseed
- Fodder
- Fruit, fresh
- Grain, threshed or unthreshed
- Hair
- Hay, baled or loose
- Hides
- Honey, comb or extracted
- Melons
- Milk, raw
- Nursery stock
- Potatoes
- Peat
- Poultry, live
- Saw logs
- Sod
- Soybeans
- Straw, baled or loose
- Vegetables, fresh
- Wood, cord or stove wood
- Wool

This rule is intended to implement Iowa Code section 321.466, subsections (5) and (6).

761—400.48(321) Special mobile equipment. Rescinded IAB 3/7/90, effective 4/11/90.

761—400.49(321) Special mobile equipment transported on a registered vehicle. Rescinded IAB 3/7/90, effective 4/11/90.

761—400.50(321,326) Refund of registration fees.

400.50(1) Vehicles registered by county treasurer.

a. The department shall refund fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.
b. A claim for refund shall be made on a form prescribed by the department. Except as provided in Iowa Code section 321.126, the claim may be submitted to the county treasurer’s office in any county.
c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for proportional registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.
d. For a vehicle that was junked, the date on the junking certificate shall determine the date the vehicle was junked.
e. If the claim for refund is for excess credit or no replacement vehicle:

(1) The county treasurer shall enter into the state motor vehicle computer system the information required to process the refund. The information shall be entered within three days of receipt of the claim for refund.

(2) The claim for refund shall be approved or denied by the office of vehicle services.
f. All other claims for refund shall be forwarded to the office of vehicle services for processing.

400.50(2) Vehicles registered by department. Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the office of motor carrier services at the address in subrule 400.6(2). The claim for refund shall be filed at the same address.
400.50(3) Disapproved claim. Rescinded IAB 11/23/05, effective 12/28/05.
This rule is intended to implement Iowa Code sections 25.1, 321.126 to 321.128 and 326.15.

761—400.51(321) Assigned identification numbers. The department is authorized to issue to the owner an assigned vehicle identification number for a vehicle, an assigned component part number for a component part, and an assigned product identification number for a fence-line feeder, grain cart, or tank wagon. An identification number shall be assigned only if the department is satisfied as to the true identity and ownership of the vehicle, component part, fence-line feeder, grain cart or tank wagon. When an assigned vehicle identification number has been issued for a vehicle, the vehicle shall be registered and titled under that number. An assigned component part number or an assigned product identification number shall be used only for identification purposes.

400.51(1) Issuance of an identification number. The department shall issue an assigned vehicle identification number, assigned component part number or assigned product identification number, as applicable, only if:
   a. The original number has been destroyed, removed or obliterated.
   b. The vehicle has had a cab, body, or frame change and the replacement cab, body, or frame is within the manufacturer’s interchangeability parts specifications catalog and is compatible with the make, model, and year of the vehicle. If the replacement cab, body, or frame change is not within the manufacturer’s interchangeability parts specifications catalog or is not compatible with the make, year, and model of the vehicle, the vehicle shall be considered reconstructed and subject to rule 761—400.16(321).
   c. The vehicle is a specially constructed, reconstructed, street rod or replica motor vehicle. See rule 761—400.16(321) for the requirements and procedures applicable to specially constructed, reconstructed, street rod or replica motor vehicles.

400.51(2) Procedures.
   a. Request. Whenever an assigned identification number is required under subrule 400.51(1) and the request does not apply to a specially constructed, reconstructed, street rod or replica motor vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department’s office of motor vehicle enforcement and request the assignment of a number.
   b. Examination. A motor vehicle investigator shall contact the owner and schedule a time and place for examination of the vehicle, component part, fence-line feeder, grain cart or tank wagon and ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing the affidavit to drive section on the certification of compliance form. The affidavit shall state that the vehicle is reasonably safe for operation and must be signed by the owner.

If the vehicle has had a cab, body, or frame change, the owner shall have, for evidence of ownership for the replacement cab, body, or frame, a bill of sale with a description of the part, complete with the manufacturer’s identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body, or frame that has been replaced shall be made available for examination at the time and place scheduled.
   c. Assigned vehicle identification number.
      (1) The investigator upon approval of the request shall affix to the vehicle an assigned vehicle identification number and give to the owner an assigned vehicle identification number (VIN) form.
      (2) The owner shall submit the VIN form, the certificate of title, and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer shall notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title, the registration receipt and the VIN form, shall issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.
   d. Assigned component part number. The investigator upon approval of the request shall affix to the component part an assigned component part number and give to the owner a component part form.
The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

e. **Assigned product identification number.** The investigator upon approval of the request shall affix an assigned product identification number to the fence-line feeder, grain cart or tank wagon and give to the owner an assigned product identification number form. The owner shall retain the form as a record of issuance and attachment. The form shall be made available on demand by any peace officer for examination.

**400.51(3) Fees.** A certificate of title fee and a fee for a notation of a security interest, if applicable, shall be collected by the county treasurer upon issuance of a corrected certificate of title.

This rule is intended to implement Iowa Code sections 321.1, 321.43 and 321.92.

[ARC 9048B, IAB 9/8/10, effective 10/13/10; ARC 0136C, IAB 5/30/12, effective 7/4/12]

### 761—400.52(321) Odometer statement.

**400.52(1) Pursuant to Iowa Code section 321.71 and 49 U.S.C. Section 32705, an odometer disclosure statement shall be submitted with an application for certificate of title for a motor vehicle. The statement shall provide a current odometer reading and reflect whether the mileage is “actual,” “not actual” or “exceeds mechanical limits.”**

**400.52(2) If the transferor failed to provide an odometer disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts on a form prescribed by the department. The sworn statement shall be accepted by the county treasurer or the department in lieu of the required odometer disclosure statement. The subsequent title issued from the sworn statement will record “not actual” mileage.**

**400.52(3) A model year formula for odometer statements shall be the current year minus ten. The resulting number represents the first model year for which a motor vehicle is exempt from the odometer statement requirements incident to a transfer.**

This rule is intended to implement Iowa Code section 321.71.

### 761—400.53(321) Stickers.

**400.53(1) Placement of validation sticker.** The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTIONS: For motorcycle, auticycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate. For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.

**400.53(2) Special fuel user identification sticker.** If the vehicle uses a special fuel as defined in Iowa Code section 452A.2, a special fuel user identification sticker shall be issued. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within 3 inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

**400.53(3) Persons with disabilities parking sticker.** A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate.

**400.53(4) Special truck sticker.** An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker which distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates, the stickers must be affixed to the lower left corner of the front and rear plates.

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, 321.121 as amended by 2011 Iowa Acts, Senate File 312, section 3, and 321.166.

[ARC 9833B, IAB 11/2/11, effective 12/7/11; ARC 2985C, IAB 3/15/17, effective 4/19/17]

### 761—400.54(321) Registration card issued for trailer-type vehicles.** The registration card issued for trailer-type vehicles shall be carried in the vehicle which is described on the card or the registration card may be carried in the driver’s compartment of the towing vehicle. If the registration card is carried in
the vehicle which is described on such card, the registration card shall be enclosed in a registration card holder and the holder shall be attached to the vehicle so that the registration card may be viewed by any peace officer upon request.

This rule is intended to implement Iowa Code section 321.32.

761—400.55(321) Damage disclosure statement.

400.55(1) If the transferor failed to provide a damage disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts. The transferee shall also complete section 2 of a separate damage disclosure statement and sign on the buyer’s line. The sworn statement and damage disclosure statement completed by the transferee shall be accepted by the county treasurer or the department in lieu of the damage disclosure statement required from the transferor.

400.55(2) A model year formula for damage disclosure statements shall be the current year minus eight. The resulting number represents the first model year for which a motor vehicle is exempt from the damage disclosure statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.69.

761—400.56(321) Hearings. The department shall send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied. The notice shall be mailed to the person’s mailing address as shown on departmental records and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle services at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 to 17A.19, 321.101 and 321.102. [ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—400.57(321) Non-resident-owned vehicles. Rescinded IAB 2/6/02, effective 3/13/02.

761—400.58(321) Motorized bicycles. The following rules shall apply to motorized bicycles.

400.58(1) Maximum speed. If the department has reasonable cause to believe that a particular vehicle or model is capable of speeds exceeding 39 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds 39 miles per hour, the vehicle or model shall not be registered as a motorized bicycle.

400.58(2) Identification of a vehicle as a motorized bicycle. Registration plates issued for motorcycles shall also be issued for motorized bicycles.

This rule is intended to implement Iowa Code sections 321.1 and 321.166. [ARC 2887C, IAB 1/4/17, effective 2/8/17]

761—400.59(321) Registration documents lost or damaged in transit through the United States postal service. To obtain without cost the reissuance of registration documents that were sent by the county treasurer to the owner through the United States postal service and which were lost or damaged in transit, the owner of the vehicle shall file application for reissuance within 60 days of the date the documents were issued by the county treasurer.

This rule is intended to implement Iowa Code section 321.42.

761—400.60(321) Credit of registration fees.

400.60(1) Credit for unexpired registration fee. The applicant may claim credit, as specified in Iowa Code subsection 321.46(3), toward the registration fee for one newly acquired replacement vehicle.
a. The credit may be claimed only when the owner of the newly acquired vehicle is applying for a certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) for the newly acquired vehicle.

b. For a junked vehicle, the date on the junking certificate shall determine the date the vehicle was junked.

c. Excess credit shall not be applied toward the registration fee for a second vehicle.

d. Credit shall be allowed for one or two vehicles which have been sold, traded or junked toward one replacement vehicle. Credit shall be based on the remaining unexpired months of the registration year(s) of the vehicle(s) sold, traded or junked.

400.60(2) Credit for transfer to spouse, parent or child. Credit shall be allowed toward a new registration for a vehicle being transferred to the applicant from the applicant’s spouse, parent or child, or from a former spouse pursuant to a dissolution of marriage decree, if application for the certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) is made within 30 days after the date of transfer. If the owner is deceased, credit may be transferred under rule 761—400.14(321) of this chapter.

400.60(3) Credit from/to proportional registration.

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle’s registration from proportional registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of proportional registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the proportional registration fees due when changing the vehicle’s registration from registration by the county treasurer to proportional registration. Application for proportional registration shall be submitted to the department’s office of motor carrier services; see 761—Chapter 500.

400.60(4) Assignment of credit and registration plates from lessor to lessee. When a lessee purchases the leased vehicle and within 30 days requests the assignment of the vehicle’s fee credit and registration plates, the lessor shall assign the registration fee credit and registration plates for the purchased vehicle to the lessee.

This rule is intended to implement Iowa Code sections 321.46, 321.46A, 321.48, 321.126 and 321.127.

761—400.61(321) Reassignment of registration plates.

400.61(1) Registration plates may be reassigned if one of the owners listed on the registration receipt before the transfer is also a listed owner following the transfer.

400.61(2) Registration plates may be reassigned when credit is allowed toward a new registration for a vehicle being transferred to the owner’s spouse, parent, or child, or to a former spouse pursuant to a dissolution of marriage decree. If the owner is deceased, plates may be transferred under rule 761—400.14(321).

400.61(3) Registration plates shall not be reassigned between a natural person or persons and a corporation, association, copartnership, company, or firm.

400.61(4) Registration plates may be reassigned and credit allowed if two or more corporations, associations, partnerships, or firms merge into one corporation, association, partnership or firm.

400.61(5) Registration plates may be assigned and credit allowed if an owner listed on the certificate of title and registration transfers ownership of the vehicle to a trust created by that owner.

This rule is intended to implement Iowa Code sections 321.34 and 321.46.

761—400.62(321) Storage of registration plates, certificate of title forms and registration forms. Registration plates, certificate of title forms and registration forms which are consigned to county treasurers by the department shall be stored in a secure location. The location may be within the office of the county treasurer which is accessible only to authorized persons or in a storage area located outside the general office area assigned to the county treasurer. Any storage area located outside the
general office area assigned to the county treasurer shall be of the construction that it is accessible only to authorized persons, as designated by the county treasurer or department.

This rule is intended to implement Iowa Code sections 321.5, 321.8, and 321.167.

761—400.63(321) Disposal of surrendered registration plates. The county treasurer shall either destroy plates that have been surrendered to the county treasurer or return the surrendered plates to Iowa state industries for recycling.

This rule is intended to implement Iowa Code sections 321.5 and 321.171.

761—400.64(321) County treasurer’s report of motor vehicle collections and funds. The county treasurer shall file the report provided for in Iowa Code section 321.153 in a manner prescribed by the department.

This rule is intended to implement Iowa Code section 321.153.

761—400.65 to 400.69 Reserved.

761—400.70(321) Removal of registration and plates by peace officer under financial liability coverage law. This rule applies to instances when a peace officer issues a citation and removes the registration receipt and registration plates of a motor vehicle registered in this state when the driver of the motor vehicle is unable to provide proof of financial liability coverage. This rule applies regardless of whether the vehicle was also impounded.

400.70(1) The peace officer shall forward the registration receipt and evidence of the violation to the county treasurer of the county in which the motor vehicle is registered. Evidence of the violation is one of the following:

   a. A copy of the citation. The citation must either reference Iowa Code subparagraph 321.20B(4) ’a’(3) or 321.20B(4) ’a’(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded.

   b. A written statement from the peace officer listing the plate number of the registration plate removed from the vehicle and the vehicle owner’s name. The statement must either reference Iowa Code subparagraph 321.20B(4) ’a’(3) or 321.20B(4) ’a’(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded. The statement must be signed by the peace officer or an employee of the law enforcement agency.

400.70(2) The peace officer may either destroy removed plates or deliver the removed plates to the county treasurer for destruction.

This rule is intended to implement Iowa Code section 321.20B.

761—400.71(321) Lemon law designation. Rescinded IAB 11/7/07, effective 12/12/07. [761—Chapter 400 appeared as Ch 11, Department of Public Safety, 1973 IDR]

[Filed 7/1/75]
[Filed 11/9/77, Notice 9/21/77—published 11/30/77, effective 1/4/78]
[Filed 5/9/78, Notice 3/22/78—published 5/31/78, effective 7/5/78]
[Filed 10/10/78, Notice 8/23/78—published 11/1/78, effective 12/6/78]
[Filed 11/13/78, Notice 9/20/78—published 11/29/78, effective 1/3/79]
[Filed 2/14/80, Notice 12/26/79—published 3/5/80, effective 4/9/80]
[Filed 12/4/80, Notice 10/15/80—published 12/24/80, effective 1/28/81]
[Filed 12/16/81, Notice 10/28/81—published 1/6/82, effective 2/10/82]
[Filed 9/30/82, Notice 8/18/82—published 10/27/82, effective 12/1/82]
[Filed 1/21/83, Notice 12/8/82—published 2/16/83, effective 3/23/83]
[Filed emergency 2/17/83—published 3/16/83, effective 3/23/83]
[Filed 8/4/83, Notice 6/22/83—published 8/31/83, effective 12/1/83]
[Filed 12/23/83, Notice 11/9/83—published 1/18/84, effective 2/22/84]
[Filed emergency 7/17/84—published 8/15/84, effective 7/18/84]
[Filed 9/28/84, Notice 8/15/84—published 10/24/84, effective 11/28/84]
[Filed emergency 12/6/84—published 1/2/85, effective 12/7/84]
[Filed 1/9/85, Notice 11/21/84—published 1/30/85, effective 3/6/85]
[Filed 7/10/85, Notice 5/22/85—published 7/31/85, effective 9/4/85]
[Filed emergency 9/4/85—published 9/25/85, effective 10/1/85]
[Filed 11/14/85, Notice 9/25/85—published 12/4/85, effective 1/8/86]
[Filed emergency 10/9/86—published 11/5/86, effective 10/10/86]
[Filed 12/18/86, Notice 11/5/86—published 1/14/87, effective 2/18/87]
[Filed emergency 2/18/87—published 3/11/87, effective 2/18/87]
[Filed 11/5/87, Notice 9/23/87—published 12/2/87, effective 1/6/88]
[Filed 1/6/88, Notice 11/18/87—published 1/27/88, effective 3/2/88]
[Filed emergency 6/22/88—published 7/13/88, effective 7/1/88]
[Filed 10/5/89, Notice 8/23/89—published 11/1/89, effective 12/6/89]
[Filed 11/1/89, Notice 9/20/89—published 11/29/89, effective 1/3/90]
[Filed emergency 11/30/89—published 12/27/89, effective 12/1/89]
[Filed 2/7/90, Notice 12/27/89—published 3/7/90, effective 4/11/90]
[Filed emergency 7/5/90—published 7/25/90, effective 7/5/90]
[Filed 12/5/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]
[Filed 7/17/91, Notice 5/1/91—published 8/7/91, effective 9/11/91]
[Filed 10/23/91, Notice 9/18/91—published 11/13/91, effective 12/18/91]
[Filed 11/6/91, Notice 10/2/91—published 11/27/91, effective 1/1/92]
[Filed 11/22/91, Notice 10/16/91—published 12/11/91, effective 1/15/92]◊
[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]
[Filed emergency 3/26/92—published 4/15/92, effective 4/29/92]
[Filed 12/18/92, Notice 10/28/92—published 1/6/93, effective 2/10/93]
[Filed 1/14/93, Notice 12/9/92—published 2/3/93, effective 3/10/93]
[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]
[Filed 2/8/95, Notice 1/4/95—published 3/1/95, effective 4/5/95]
[Filed 11/29/95, Notice 10/25/95—published 12/20/95, effective 1/24/96]
[Filed 3/5/97, Notice 1/29/97—published 3/26/97, effective 4/30/97]
[Filed 10/28/98, Notice 8/26/98—published 11/18/98, effective 12/23/98]
[Filed 3/10/99, Notice 1/13/99—published 4/7/99, effective 5/12/99]
[Filed 5/12/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]
[Filed 5/3/00, Notice 2/23/00—published 5/31/00, effective 7/5/00]
[Filed 7/18/01, Notice 5/30/01—published 8/8/01, effective 9/12/01]
[Filed 1/17/02, Notice 11/28/01—published 2/6/02, effective 3/13/02]
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed 11/7/02, Notice 10/2/02—published 11/27/02, effective 1/1/03]
[Filed 11/2/05, Notice 9/14/05—published 11/23/05, effective 12/28/05]
[Filed 10/11/07, Notice 8/15/07—published 11/7/07, effective 12/12/07]
[Filed ARC 9048B (Notice ARC 8869B, IAB 6/30/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 9833B (Notice ARC 9742B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0136C (Notice ARC 0068C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]
[Filed ARC 2887C (Notice ARC 2780C, IAB 10/26/16), IAB 1/4/17, effective 2/8/17]
Two or more ARCs

[Filed ARC 2985C (Notice ARC 2908C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 401
SPECIAL REGISTRATION PLATES

761—401.1(321) Definition. “Special registration plates” means those registration plates issued under Iowa Code sections 321.34 and 321.105 other than regular or sample plates. Special registration plates shall be issued in accordance with Iowa Code sections 321.34 and 321.105, this chapter of rules, and other applicable provisions of law.

761—401.2(321) Application, issuance and renewal.

401.2(1) Original application.

a. Except for collegiate plates, application for letter-number designated special registration plates that do not have eligibility requirements shall be made directly to the county treasurer’s office; no application form is required for these plates.

b. Collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form prescribed by the department. Unless otherwise specified, completed application forms for these plates shall be submitted to the department at the following address: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Application forms may be obtained from the office of vehicle services or from any county treasurer’s office. Application forms are also available on the department’s Web site at http://www.iowadot.gov/mvd.

c. The issuance fee, if any, shall be submitted with the application.

401.2(2) Issuance.

a. Special registration plates shall be issued only to a person who is an owner or lessee of the vehicle and is entitled to the special registration plates.

b. Special registration plates shall not be issued unless the vehicle is currently registered and the registration plates previously issued are surrendered to the county treasurer. Special registration plates are void if they are not assigned to a vehicle within 90 days after the date the department orders them. A new application and a new issuance fee are required if the plates are reordered after the 90-day period.

c. and d. Rescinded IAB 11/7/07, effective 12/12/07.

401.2(3) Renewal. Special registration plates are renewed at the office of the county treasurer of the county of residence of the applicant. The renewal fee, if any, is termed a “validation” fee. The validation fee shall be paid when the regular annual registration fee is due and is in addition to the regular annual registration fee. If renewal is delinquent for more than one month:

a. A new application and a new issuance fee are required.

b. The department may issue the combination of characters on personalized plates to another applicant.

401.2(4) Fees. The issuance and validation fees for the various types of special registration plates that are available are set out in Iowa Code section 321.34.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—401.3 Reserved.

761—401.4(321) Gift certificates. Gift certificates for collegiate plates, personalized plates, and special registration plates that have eligibility requirements may be purchased using the prescribed plate application form. Gift certificates for special registration plates that counties have in their inventories may be purchased from county treasurers’ offices.

761—401.5(321) Amateur radio call letter plates. Application for amateur radio call letter plates shall be made to the county treasurer on a form prescribed by the department. The number of the amateur radio license issued by the Federal Communications Commission shall be listed on the application.
761—401.6(321) Personalized plates.

401.6(1) Application. Application for personalized plates shall be submitted to the department on a form prescribed by the department.

401.6(2) Characters. The personalized plates shall consist of no fewer than two nor more than seven characters except that personalized plates for motorcycles, autocycles and small trailers shall consist of no fewer than two nor more than six characters.
   a. The characters “A” to “Z” and “1” to “9” may be used. Zeros shall not be used.
   b. The personalized plates shall not duplicate combinations of characters reserved or issued for any other vehicle plate series under Iowa Code chapter 321.
   c. No combination of characters denoting a governmental agency shall be issued.
   d. The department shall not issue any combination of characters it determines is:
      (1) Sexual in connotation;
      (2) A term of vulgarity, contempt, hostility, insult, or racial or ethnic degradation;
      (3) Recognized as a swear word;
      (4) A reference to an illegal substance;
      (5) A reference to a criminal act;
      (6) Offensive; or
      (7) A foreign word falling into any of these categories.

401.6(3) Renewal. Rescinded IAB 11/23/05, effective 12/28/05.

401.6(4) Reassignment. Rescinded IAB 11/23/05, effective 12/28/05.

401.6(5) Gift certificate. Rescinded IAB 11/23/05, effective 12/28/05.

[ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—401.7(321) Collegiate plates.

401.7(1) Application. Application for collegiate plates shall be submitted to the department on a form prescribed by the department. The applicant may request letter-number designated collegiate plates or personalized collegiate plates. Collegiate plates for motorcycles, autocycles and small trailers are not available.

401.7(2) Characters. Personalized collegiate plates shall be issued in accordance with subrule 401.6(2) except that personalized collegiate plates are not available for motorcycles, autocycles and small trailers.

401.7(3) Renewal. Rescinded IAB 11/23/05, effective 12/28/05.

401.7(4) Reassignment. Rescinded IAB 11/23/05, effective 12/28/05.

401.7(5) Gift certificate. Rescinded IAB 11/23/05, effective 12/28/05.

[ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—401.8(321) Medal of Honor plates.

401.8(1) Application for Medal of Honor plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the medal of honor.

401.8(2) Medal of Honor plates are limited to five characters. Personalized plates are not available.

761—401.9(321) Firefighter plates.

401.9(1) Initial application for firefighter plates. Application for firefighter plates shall be submitted to the department on a form prescribed by the department. Both the fire chief and another fire officer of the paid or volunteer fire department shall sign the application form, certifying that the applicant is a current or retired member of the fire department. The signatures must be original and notarized. If the fire chief and fire officer deny an application, the department may conduct an investigation and make a determination to approve or deny the application.

401.9(2) Renewal of firefighter plates for a current member. A new application is required in order to renew firefighter plates issued to a current member. The application shall be submitted to the county treasurer’s office.

401.9(3) Renewal of firefighter plates for a retired member.
a. A new application is not required in order to renew firefighter plates issued to a retired member if the initial application for firefighter plates is made after January 1, 2005.

b. For firefighter plates issued to a retired member prior to January 1, 2005, a new application is required in order to renew firefighter plates until the plates have been renewed once after January 1, 2005. The application shall be submitted to the county treasurer’s office.

401.9(4) Plates. Firefighter plates are limited to five characters. Personalized plates are not available. When a new series of firefighter plates is issued to replace a current series or the plate has been lost, stolen, or damaged, an applicant may obtain replacement plates containing the applicant’s previous plate number upon payment of the statutory fee.

401.9(5) Definitions. The following definitions apply to this rule:
“Current” means a member who has at least one year of service and is in good standing, as determined by the fire chief.
“Fire officer” means a member of the same fire department as the applicant and who is second in command to the fire chief.
“Retired” or “officially retired” means a former member who has a minimum of ten years’ total service in good standing, as determined by the fire chief.

[ARC 0778C, IAB 6/12/13, effective 7/17/13]

761—401.10(321) Emergency medical services plates.

401.10(1) Application for emergency medical services (EMS) plates shall be submitted to the department on a form prescribed by the department. The applicant and the applicant’s service director shall sign the application form certifying that the applicant is a current member of a paid or volunteer emergency medical services agency. The signatures must be original and notarized. For purposes of this subrule, “service director” means a service director as defined in Iowa department of public health rule 641—132.1(147A).

401.10(2) A vehicle owner whose membership in a paid or volunteer emergency medical services agency is terminated shall within 30 days after termination surrender the EMS plates to the county treasurer in exchange for regular registration plates.

401.10(3) EMS plates are limited to five characters. Personalized plates are not available. When a new series of EMS plates is issued to replace a current series or the plate has been lost, stolen, or damaged, an applicant may obtain replacement plates containing the applicant’s previous plate number upon payment of the statutory fee.

[ARC 0156C, IAB 5/30/12, effective 7/4/12; ARC 0778C, IAB 6/12/13, effective 7/17/13]

761—401.11(321) Natural resources plates. Letter-number designated natural resources plates are limited to five characters. Personalized natural resources plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs “a” to “d.”


761—401.13(321) Disabled veteran plates.

401.13(1) Disabled veteran plates are issued in accordance with Iowa Code sections 321.34, 321.105 and 321.166.

401.13(2) To apply for disabled veteran plates for a motor vehicle, the disabled veteran shall submit to the county treasurer a certification from the U.S. Department of Veterans Affairs that the United States government has provided or has assisted in providing the motor vehicle to the disabled veteran. The certification is required when the motor vehicle is first registered. Another certification may be required for the first registration of a newly acquired vehicle or when the veteran moves to another county.

401.13(3) The disabled veteran plates shall be surrendered to the county treasurer in exchange for regular registration plates within 30 days after the death of the disabled veteran. The motor vehicle to which the plates are assigned shall become subject to the payment of regular registration fees on the first
day of the month following the death of the disabled veteran. The registration fees shall be prorated for the remaining unexpired months of the registration year.

761—401.14 Reserved.

761—401.15(321) Processed emblem application and approval process. Following is the application and approval process for special plate requests under Iowa Code subsection 321.34(13).

401.15(1) Application to request a new special registration plate with a processed emblem shall be submitted to the department on a form prescribed by the department.

401.15(2) The application shall contain:
   a. The applicant’s name, address, and telephone number.
   b. The name of the processed emblem.
   c. A clear and concise explanation of the purpose of the special plate and all eligibility requirements.
   d. The total number of the special plates the applicant anticipates being purchased.

401.15(3) The application shall be accompanied by:
   a. A color copy of the processed emblem.
      (1) The processed emblem shall be limited to 3” × 3½” on the registration plate, but the emblem submitted may be of a larger size.
      (2) The processed emblem shall not have any sexual connotation, nor shall it be vulgar, prejudiced, hostile, insulting, or racially or ethnically degrading.
   b. A certification by the person who has legal rights to the emblem allowing use of the emblem. This certification shall also include a statement holding the department harmless for using the processed emblem on a registration plate.

401.15(4) The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning the processed emblem.

401.15(5) Within 60 days after receiving the application, the office of vehicle services shall advise the applicant of the department’s approval or denial of the application. The department reserves the right to approve or disapprove any processed emblem.

401.15(6) If the department approves the application, the applicant shall be advised that 500 paid special plate applications must be submitted to the department before the new plate will be manufactured and issued. If 500 paid applications are not submitted within one year after the date the department approved the plate, the department may cancel its approval or grant an extension.

401.15(7) If the special plate is approved and at a later date it is determined that a false application was submitted, the department shall revoke the special plates. No refunds shall be paid.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—401.16(321) Special plates with processed emblems—general. Special registration plates with processed emblems are limited to five characters. Personalized special registration plates with processed emblems shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs “a” to “d.”

761—401.17(321) State agency-sponsored processed emblem plates.

401.17(1) Application and approval process for a new plate. A state agency recommending a new special registration plate with a processed emblem shall submit its request to the department on a form prescribed by the department. The application and approval process is set out in rule 761—401.15(321). The application shall include clear and concise eligibility requirements for plate applicants.

401.17(2) Plate application. Once new state agency-sponsored processed emblem plates have been approved, manufactured and issued, the plates may be ordered as described below.
   a. When the plates have no eligibility requirements:
      (1) Application for letter-number designated plates shall be submitted to the county treasurer.
      (2) Application for personalized plates shall be submitted to the department on a form prescribed by the department.
b. When the plates have eligibility requirements, application for either letter-number designated or personalized plates shall be submitted to the sponsoring state agency for approval on a form prescribed by the department. The sponsoring state agency shall forward approved applications to the department. 401.17(3) Characters. State agency-sponsored processed emblem plates are limited to five characters. Personalized state agency-sponsored processed emblem plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs "a" to "d."


761—401.18(321) Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates. Following is the application and approval process for special plate requests under Iowa Code section 321.34 as amended by 2011 Iowa Acts, House File 651, section 2.

401.18(1) Design.

a. The plates shall be a standard background plate with a distinguishing processed emblem specific to each plate type, consistent with processed emblems approved pursuant to rule 761—401.15(321).

b. The distinguishing processed emblem shall be limited to $3'' \times 3\frac{1}{2}''$ on the registration plate.

c. A distinguishing processed emblem owned or subject to legal rights of another person will not be used unless the department receives certification from the person that allows use of the emblem. The certification must include a statement holding the department harmless for using the emblem on a registration plate.

d. The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

401.18(2) Production. None of the special registration plates subject to this rule will be manufactured or issued until 250 paid applications are submitted to the department. This minimum order requirement applies to each of the special registration plates subject to this rule. Each application must be accompanied by a statutory start-up fee.

401.18(3) Discontinuance. If 250 paid applications for any special registration plate subject to this rule are not submitted within one year after the date the department makes the plate available for application, the department shall report that fact to the legislature at the next regular session of the general assembly and request authority to discontinue the special registration plate.

401.18(4) Application process.

a. Applications for either letter-number designated or personalized combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, or combat medical badge special registration plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach to the application a copy of an official government document verifying award of the combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal or combat medical badge to the applicant.

b. Applications for letter-number designated civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the county treasurer.

c. Applications for personalized civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the department on a form prescribed by the department.

401.18(5) Characters. Plates are limited to five characters. Personalized plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs "a" to "d."

401.18(6) Right of approval. The department reserves the right to approve or disapprove any application.

[ARC 9833B, IAB 11/2/11, effective 12/7/11]
761—401.19(321) **Legion of Merit plates.** Application for special plates with a Legion of Merit processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the Legion of Merit. Personalized plates with a Legion of Merit processed emblem are not available. Pursuant to Iowa Code section 321.34, an applicant is eligible for one set of Legion of Merit plates at a reduced annual registration fee of $15 for one vehicle owned. However, an applicant may obtain additional Legion of Merit plates upon payment of the regular annual registration fee.

[ARC 9048B, IAB 9/8/10, effective 10/15/10]

761—401.20(321) **Persons with disabilities plates.**

*401.20(1) Application.* Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

a. The application shall include a signed statement written on the physician’s, chiropractor’s, physician assistant’s or advanced registered nurse practitioner’s letterhead. The statement shall certify that the owner or the owner’s child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. If the person with a disability is a child, the parent or guardian shall complete the proof of residency certification on the application or complete and submit a separate proof of residency Form 411120, certifying that the child resides with the owner.

c. A new application form is not required when an individual’s application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.

d. In lieu of submitting the signed medical statement required under paragraph 401.20(1)”a.” an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.

*401.20(2) Definition.*

“Child” includes, but is not limited to, stepchild, foster child, or legally adopted child who is younger than 18 years of age, or a dependent person 18 years of age or older who is unable to maintain the person’s self.

*401.20(3) Renewal.* The owner shall, at renewal time, provide a self-certification stating that the owner or the owner’s child is still a person with a disability and, if the person with a disability is the owner’s child, that the child still resides with the owner.

[ARC 0136C, IAB 5/30/12, effective 7/4/12]

761—401.21(321) **Ex-prisoner of war plates.**

*401.21(1) Application.* Application for special plates with an ex-prisoner of war processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was a prisoner of war. If the document is not available, a person who has knowledge that the applicant was a prisoner of war shall sign a statement to that effect on the application form.

*401.21(2) The surviving spouse of a person who was issued ex-prisoner of war plates may continue to use or apply for the plates. If the surviving spouse remarries, the surviving spouse shall surrender the plates to the county treasurer in exchange for regular registration plates within 30 days after the date on the marriage certificate. Ex-prisoner of war plates may not be reissued once this event occurs.

*401.21(3) Personalized plates with an ex-prisoner of war processed emblem are not available.

761—401.22(321) **National guard plates.** Application for special plates with a national guard processed emblem shall be submitted to the department on a form prescribed by the department. The unit commander of the applicant shall sign the application form confirming that the applicant is a member of the Iowa national guard.
761—401.23(321) Pearl Harbor plates. Application for special plates with a Pearl Harbor processed emblem shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of an official government document verifying that the applicant was stationed at Pearl Harbor, Hawaii, as a member of the armed forces on December 7, 1941.

761—401.24(321) Purple Heart, Silver Star and Bronze Star plates. Application for special plates with a Purple Heart, Silver Star, or Bronze Star processed emblem shall be submitted to the department on a form prescribed by the department. To verify receipt of the medal, the applicant shall attach a copy of one of the following:
1. The official military order confirming the medal.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.25(321) U.S. armed forces retired plates. Application for special plates with a United States armed forces retired processed emblem shall be submitted to the department on a form prescribed by the department. A person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. To verify retirement from the United States armed forces, the applicant shall attach a copy of one of the following:
1. The official military order confirming retirement from the armed forces.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.26 Reserved.

761—401.27(321) Iowa heritage plates. Rescinded IAB 11/23/05, effective 12/28/05.


761—401.31(321) Veteran plates. Application for special plates with a veteran processed emblem shall be submitted to the commission of veterans affairs on a form prescribed by the department of transportation. The commission of veterans affairs shall determine whether the applicant is a veteran and, if so, certify this fact on the application form.

761—401.32(321) Surrender of plates. Special registration plates issued to a person who is no longer eligible for the plates shall be surrendered to the county treasurer in exchange for regular registration plates within 30 days after the date of the event that made the person ineligible. If the vehicle was exempt from the payment of regular registration fees due to the type of special registration plates issued, the vehicle shall become subject to the payment of regular registration fees on the first day of the month following the date of the event that made the person ineligible. The regular registration fees shall be prorated for the remaining unexpired months of the registration year.

761—401.33(321) Validation fees. Validation fees shall not be prorated. The annual validation fee is due when there is a change in registration month.

761—401.34(321) Reassignment of plates.
401.34(1) A vehicle owner or lessee who has special registration plates assigned to a currently registered vehicle may request that the plates be reassigned to another currently registered vehicle owned or leased by that person or owned or leased by another person. However, special registration
plates that have eligibility requirements may not be reassigned to a vehicle owned or leased by another person.

401.34(2) To reassign plates to a vehicle owned or leased by another person, a written request for reassignment signed by both the assignor and assignee shall be submitted to the county treasurer of the assignee’s county of residence. The special registration plates shall be issued to the assignee by the county treasurer of the assignee’s county of residence in exchange for the registration plates previously issued.

401.34(3) When ownership of a vehicle is transferred to another person, the owner shall, within 30 days after the transfer, either surrender the special registration plates to the county treasurer or request reassignment of the plates, as explained in subrules 401.34(1) and 401.34(2).

401.34(4) When the lease for a vehicle is terminated, the lessee shall, within 30 days after the termination, either surrender the special registration plates to the county treasurer or request reassignment of the plates, as explained in subrules 401.34(1) and 401.34(2).

761—401.35(321) Revocation of special registration plates. Special registration plates shall be revoked if they have been issued in conflict with the statutes or rules governing the plates’ issuance. Revoked plates shall be surrendered to the department within 30 days of the date of revocation.

761—401.36(321) Refund of fees. No refund of fees for special registration plates shall be allowed unless the special plates were issued in conflict with the statutes or rules governing their issuance.


[Filed 2/8/95, Notice 1/4/95—published 3/1/95, effective 4/5/95]
[Filed 11/25/97, Notice 10/8/97—published 12/17/97, effective 1/21/98]
[Filed 3/10/99, Notice 1/13/99—published 4/7/99, effective 5/12/99]
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed 7/13/04, Notice 5/12/04—published 8/4/04, effective 9/8/04]
[Filed 11/2/05, Notice 9/14/05—published 11/23/05, effective 12/28/05]
[Filed 10/11/07, Notice 8/15/07—published 11/7/07, effective 12/12/07]
[Filed ARC 9048B (Notice ARC 8869B, IAB 6/30/10), IAB 9/8/10, effective 10/13/10]
[Filed ARC 9833B (Notice ARC 9742B, IAB 9/7/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0136C (Notice ARC 0068C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]
[Filed ARC 0778C (Notice ARC 0658C, IAB 4/3/13), IAB 6/12/13, effective 7/17/13]
[Filed ARC 2985C (Notice ARC 2908C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTER 425
MOTOR VEHICLE AND TRAVEL TRAILER DEALERS, MANUFACTURERS, DISTRIBUTORS AND WHOLESALERS
[Prior to 7/17/96, see 761—Chapters 420 and 422]

761—425.1(322) Introduction.

425.1(1) This chapter applies to the licensing of motor vehicle and travel trailer dealers, manufacturers, distributors and wholesalers. Also included in this chapter are the criteria for the issuance and use of dealer plates.

425.1(2) The office of vehicle services administers this chapter. The mailing address is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

a. Applications required by the chapter shall be submitted to the office of vehicle services.

b. Information about dealer plates and the licensing of motor vehicles and travel trailer dealers, manufacturers, distributors and wholesalers is available from the office of vehicle services or on the department’s Web site at http://www.iowadot.gov/mvd.

[A RC 9048B, IAB 9/8/10, effective 10/13/10]

761—425.2 Reserved.

761—425.3(322) Definitions. The following definitions, in addition to those found in Iowa Code sections 322.2 and 322C.2, apply to this chapter of rules:

“Certificate of title” means a document issued by the appropriate official which contains a statement of the owner’s title, the name and address of the owner, a description of the vehicle, a statement of all security interests, and additional information required under the laws or rules of the jurisdiction in which the document was issued, and which is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms “title certificate,” “title only” and “title” shall be synonymous with the term “certificate of title.”

“Consumer use” means use of a motor vehicle or travel trailer for business or pleasure, not for sale at retail, by a person who has obtained a certificate of title and has registered the vehicle under Iowa Code chapter 321.

“Dealer,” unless otherwise specified, means a person who is licensed to engage in this state in the business of selling motor vehicles or travel trailers at retail under Iowa Code chapter 322 or 322C.

“Engage in this state in the business” or similar wording means doing any of the following acts for the purpose of selling motor vehicles or travel trailers at retail: to acquire, sell, exchange, hold, offer, display, broker, accept on consignment or conduct a retail auction, or to act as an agent for the purpose of doing any of these acts. A person selling at retail more than six motor vehicles or six travel trailers during a 12-month period may be presumed to be engaged in the business. See rule 761—425.20(322) for provisions regarding fleet sales and retail auction sales.

“Manufacturer’s certificate of origin” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named, and that the transfer is the first transfer of the vehicle in ordinary trade and commerce. The terms “manufacturer’s statement,” “importer’s statement or certificate,” “MSO” and “MCO” shall be synonymous with the term “manufacturer’s certificate of origin.” See rule 761—400.1(321) for more information.

“Principal place of business” means a building actually occupied where the public and the department may contact the owner or operator during regular business hours. In lieu of a building, a travel trailer dealer may use a manufactured or mobile home as an office if taxes are current or a travel trailer as an office if registration fees are current. The principal place of business must be located in this state.

“Registered dealer” means a dealer licensed under Iowa Code chapter 322 or 322C who possesses a current dealer certificate under Iowa Code section 321.59.

“Regular business hours” means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Except as provided in Iowa Code section 322.36, regular
business hours for a motor vehicle or travel trailer dealer shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

“Salesperson” means a person employed by a motor vehicle or travel trailer dealer for the purpose of buying or selling vehicles.

“Vehicle,” unless otherwise specified, means a motor vehicle or travel trailer.

“Wholesaler” means a person who sells new vehicles to dealers and not at retail.

This rule is intended to implement Iowa Code chapters 322 and 322C.

761—425.4 to 425.9 Reserved.

761—425.10(322) Application for dealer’s license.

425.10(1) Application forms. To apply for a license as a motor vehicle or travel trailer dealer, the applicant shall complete an application on forms prescribed by the department.

425.10(2) Surety bond.

a. The applicant shall obtain a surety bond in the following amounts and file the original with the office of vehicle services:

   (1) For a motor vehicle dealer’s license, $50,000.

   (2) For a travel trailer dealer’s license, $25,000. However, an applicant for a travel trailer dealer’s license is not required to file a bond if the person is licensed as a motor vehicle dealer under the same name and at the same principal place of business.

b. The surety bond shall provide for notice to the office of vehicle services at least 30 days before cancellation.

c. The office of vehicle services shall notify the bonding company of any conviction of the dealer for a violation of dealer laws.

d. If the bond is canceled, the office of vehicle services shall notify the dealer by first-class mail that the dealer’s license shall be revoked on the same date that the bond is canceled unless the bond is reinstated or a new bond is filed.

e. If an applicant whose dealer’s license was revoked pursuant to paragraph “d’’ establishes that the applicant obtained a reinstated or new bond meeting the requirements of subrule 425.10(2) that was effective on or before the date of cancellation, but due to mistake or inadvertence failed to file the original bond with the office of vehicle services, the applicant may file the original of the reinstated or new bond. Upon filing, the department will rescind the revocation of the dealer’s license.

425.10(3) Franchise.

a. An applicant who intends to sell new motor vehicles or travel trailers shall submit to the office of vehicle services a copy of a signed franchise agreement with the manufacturer or distributor of each make the applicant intends to sell.

b. If a signed franchise agreement is not available at the time of application, the department may accept written evidence of a franchise which includes all of the following:

   (1) The name and address of the applicant and the manufacturer or distributor.

   (2) The make of motor vehicle or travel trailer that the applicant is authorized to sell.

   (3) The applicant’s area of responsibility as stipulated in the franchise and certified on a form prescribed by the department.

   (4) The signature of the manufacturer or distributor.

425.10(4) Corporate applicants. If the applicant is a corporation, the applicant shall certify on the application that the corporation complies with all applicable state requirements for incorporation.

425.10(5) Principal place of business. The applicant shall maintain a principal place of business, which must be staffed during regular business hours. See rules 761—425.12(322) and 761—425.14(322) for further requirements.

425.10(6) Zoning. The applicant shall provide to the office of vehicle services written evidence, issued by the office responsible for the enforcement of zoning ordinances in the city or county where
the applicant’s business is located, which states that the applicant’s principal place of business and any 
extensions comply with all applicable zoning provisions or are a legal nonconforming use.

425.10(7) Separate licenses required.
   a. A separate license is required for each city or township in which an applicant for a motor vehicle 
dealer’s license maintains a place of business.
   b. A separate license is required for each county in which an applicant for a travel trailer dealer’s 
license maintains a place of business.

425.10(8) Financial liability. The applicant for a motor vehicle dealer’s license shall certify on the 
application that the applicant has the required financial liability coverage in the limits as set forth in Iowa 
Code subsection 322.4(1). It is the applicant’s responsibility to ensure the required financial liability 
coverage is continuous with no lapse in coverage as long as the applicant maintains a valid dealer’s 
license.

425.10(9) Ownership information.
   a. If the owner of the business is an individual, the application shall include the legal name, bona 
fide address, and telephone number of the individual. If the owner is a partnership, the application shall 
include the legal name, bona fide address, and telephone number of two partners. If the owner is a 
corporation, the application shall include the legal name, bona fide address, and telephone number of two 
corporate officers. In all cases, the telephone number must be a number where the individual, partner, or 
corporate officer can be reached during normal business hours.
   b. The application shall include the federal employer identification number of the business. 
However, if the business is owned by an individual who is not required to have a federal employer 
identification number, the application shall include the individual’s social security number, Iowa 
nonoperator’s identification number or Iowa driver’s license number.

425.10(10) Reserved.

425.10(11) Verification of compliance. The department shall verify the applicant’s compliance with 
all statutory and regulatory dealer licensing requirements.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—425.11 Reserved.

761—425.12(322) Motor vehicle dealer’s place of business.

425.12(1) Verification of compliance. Before a motor vehicle dealer’s license is issued, a 
representative of the department may physically inspect an applicant’s principal place of business to 
verify compliance with this rule.

425.12(2) Telephone service and office area. A motor vehicle dealer’s principal place of business 
shall include telephone service and an adequate office area, separate from other facilities, for keeping 
business records, manufacturers’ certificates of origin, certificates of title or other evidence of ownership 
for all motor vehicles offered for sale. Telephone service must be a land line and not cellular phone 
service. Evidence of ownership may include a copy of an original document if the original document is 
held by a lienholder.

425.12(3) Facility for displaying motor vehicles. A motor vehicle dealer’s principal place of 
business shall include a suitable space reserved for display purposes where motor vehicles may be 
viewed by prospective buyers. The facility shall be:
   a. Within a building. EXCEPTION: For used motor vehicle dealers and for dealers selling new trucks 
or motor homes exclusively, the display facility may be an outdoor area with an all-weather surface. An 
all-weather surface does not include grass or exposed soil.
   b. Of a minimum size.
      (1) For display of motorcycles, motorized bicycles and autocycles, the minimum size of the display 
facility is 10 feet by 15 feet.
      (2) For display of other motor vehicles, the minimum size of the display facility is 18 feet by 30 
feet.
425.12(4) Facility for reconditioning and repairing motor vehicles. A motor vehicle dealer’s principal place of business shall include a facility for reconditioning and repairing motor vehicles. The facility shall be an area that:
   a. Is equipped to repair and recondition one or more motor vehicles of a type sold by the dealer.
   b. Is within a building.
   c. Has adequate access.
   d. Is separated from the display and office areas by solid, floor-to-ceiling walls and solid, full-length doors.
   e. Is of a minimum size.
      (1) The minimum size facility for motorcycles, motorized bicycles and autocycles is an unobstructed rectangular area measuring 10 feet by 15 feet.
      (2) The minimum size facility for other types of motor vehicles is an unobstructed rectangular area measuring 14 feet by 24 feet.

425.12(5) Motor vehicle dealer who is also a recycler. If a motor vehicle dealer also does business as a recycler, there shall be separate parking for motor vehicles being offered for sale at retail from motor vehicles that are salvage.

This rule is intended to implement Iowa Code sections 322.1 to 322.15. [ARC 9048B, IAB 9/8/10, effective 10/13/10; ARC 0778C, IAB 6/12/13, effective 7/17/13; ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—425.13 Reserved.

761—425.14(322) Travel trailer dealer’s place of business.

425.14(1) Telephone service and office area. A travel trailer dealer’s principal place of business shall include telephone service and an adequate office area, separate from other facilities, for keeping business records, manufacturers’ certificates of origin, certificates of title or other evidence of ownership for all travel trailers offered for sale. Telephone service must be a land line and not cellular phone service. Evidence of ownership may include a copy of an original document if the original document is held by a lienholder.

425.14(2) Facility for displaying travel trailers. A travel trailer dealer’s principal place of business shall include a space of sufficient size to permit the display of one or more travel trailers. The display facility may be an indoor area or an outdoor area with an all-weather surface. An all-weather surface does not include grass or exposed soil. If an outdoor display facility is maintained, it may be used only to display, recondition or repair travel trailers or to park vehicles.

425.14(3) Facility for repairing and reconditioning travel trailers. A travel trailer dealer’s principal place of business shall include a facility for reconditioning and repairing travel trailers. The facility:
   a. Shall be equipped and of sufficient size to repair and recondition one or more travel trailers of a type sold by the dealer.
   b. Shall have adequate access.
   c. May be an indoor area or an outdoor area with an all-weather surface. An all-weather surface does not include grass or exposed soil.
   d. May occupy the same area as the display facility.

425.14(4) Travel trailer dealer also licensed as a motor vehicle dealer. If a travel trailer dealer is also licensed as a motor vehicle dealer under the same name and at the same principal place of business, separate facilities for displaying, repairing and reconditioning travel trailers are not required.

This rule is intended to implement Iowa Code sections 322C.1 to 322C.6.

761—425.15 and 425.16 Reserved.

761—425.17(322) Extension lot license. Extension lots of motor vehicle and travel trailer dealers must be licensed. Application to license an extension lot shall be made on a form prescribed by the department.
425.17(1) For a motor vehicle dealer, an extension lot is a car lot for the sale of motor vehicles that is located within the same city or township as, but is not adjacent to, the motor vehicle dealer’s principal place of business.

425.17(2) For a travel trailer dealer, an extension lot is a travel trailer lot for the sale of travel trailers that is located within the same county as, but is not adjacent to, the travel trailer dealer’s principal place of business.

425.17(3) An extension lot must be owned or leased by the dealer.

425.17(4) Parcels of property are adjacent if the parcels are owned or leased by the dealer and the parcels are either adjoining or are separated only by an alley, street or highway that is not a fully controlled access facility.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

761—425.18(322) **Supplemental statement of changes.** A motor vehicle dealer shall file a written statement with the office of vehicle services at least ten days before any change of name, location, hours, or method or plan of doing business. A license is not valid until the changes listed in the statement have been approved by the office of vehicle services.

This rule is intended to implement Iowa Code sections 322.1 to 322.15.

761—425.19 Reserved.

761—425.20(322) **Fleet vehicle sales and retail auction sales.**

425.20(1) *Fleet sales.* Any person who has acquired vehicles for consumer use in a business shall obtain the appropriate dealer’s license when more than six vehicles are offered for sale at retail in a 12-month period.

425.20(2) *Retail auction sales.* Any person who sells at public auction more than six vehicles in a 12-month period shall obtain the appropriate dealer’s license. All certificates of title for the vehicles offered for sale at public auction shall be duly assigned to the dealer.

425.20(3) *Place of business.* A dealer’s license issued under this rule does not require a place of business.

425.20(4) *Exceptions.*

a. The state of Iowa, counties, cities and other governmental subdivisions are not required to obtain a dealer’s license to sell their vehicles at retail.

b. This rule does not apply to a vehicle owner, or to an auctioneer representing the owner, selling vehicles at a retail auction if the vehicles were acquired by the owner for consumer use, the vehicles are incidental to the auction, and only one owner’s vehicles are sold.

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

761—425.21 to 425.23 Reserved.

761—425.24(322) **Miscellaneous requirements.**

425.24(1) The department shall not issue a license under Iowa Code chapter 322 or 322C to any other person at a principal place of business of a person currently licensed under Iowa Code chapter 322 or 322C.

425.24(2) A motor vehicle or travel trailer dealer shall not represent or advertise the dealership under any name or style other than the name which appears on the dealer’s license.

425.24(3) Other business activities are allowed at a place of business of a dealer, but those activities shall not include the sale of firearms, dangerous weapons as defined in Iowa Code section 702.7, or alcoholic beverages as defined in Iowa Code subsection 123.3(4).

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—425.25 Reserved.
761—425.26(322) Fairs, shows and exhibitions.

425.26(1) Definitions. As used in this rule:

“Display” means having new motor vehicles or new travel trailers available for public viewing at fairs, vehicle shows or vehicle exhibitions. The dealer may also post, display or provide product information through literature or other descriptive media. However, the product information shall not include prices, except for the manufacturer’s sticker price. “Display” does not mean offering new vehicles for sale or negotiating sales of new vehicles.

“Fair” means a county fair or a scheduled gathering for a predetermined period of time at a specific location for the exhibition, display or sale of various wares, products, equipment, produce or livestock, but not solely new vehicles, and sponsored by a person other than a single dealer.

“Offer” new vehicles “for sale,” “negotiate sales” of new vehicles, or similar wording, means doing any of the following at a fair, show or exhibition: posting prices in addition to the manufacturer’s sticker price, discussing prices or trade-ins, arranging for payments or financing, and initiating contracts.

“Vehicle exhibition” means a scheduled event conducted at a specific location where various types, makes or models of new vehicles are displayed either at the same time or consecutively in time, and sponsored by a person other than a single dealer.

“Vehicle show” means a scheduled event conducted for a predetermined period of time at a specific location for the purpose of displaying at the same time various types, makes or models of new vehicles, which may be in conjunction with other events or displays, and sponsored by a person other than a single dealer.

425.26(2) Permits for motor vehicle dealers.

a. A “display only” fair, show or exhibition permit allows a motor vehicle dealer to display new motor vehicles at a specified fair, vehicle show or vehicle exhibition in any Iowa county. The permit is valid on Sundays.

b. A “full” fair, show or exhibition permit allows a motor vehicle dealer to display and offer new motor vehicles for sale and negotiate sales of new motor vehicles at a specified fair, vehicle show or vehicle exhibition that is held in the same county as the motor vehicle dealer’s principal place of business. EXCEPTION: A motor vehicle dealer who is licensed to sell motor homes may be issued a permit to offer for sale Class “A” and Class “C” motor homes at a specified fair, show or exhibition in any Iowa county. A “full” fair, show or exhibition permit is not valid on Sundays.

c. The following restrictions are applicable to both types of permits:

1. Permits will be issued to motor vehicle dealers only for fairs, vehicle shows or vehicle exhibitions where more than one motor vehicle dealer may participate.

2. A permit is limited to the line makes for which the motor vehicle dealer is licensed in Iowa.

425.26(3) Reserved.

425.26(4) Permits for travel trailer dealers. A fair, show or exhibition permit allows a travel trailer dealer to display and offer new travel trailers for sale and negotiate sales of new travel trailers at a specified fair, vehicle show, or vehicle exhibition in any Iowa county.

a. The permit is valid on Sundays.

b. The permit is limited to the line makes for which the travel trailer dealer is licensed in Iowa.

c. A travel trailer dealer who does not have a permit may display vehicles at fairs, vehicle shows and vehicle exhibitions.

425.26(5) Permit application. A motor vehicle or travel trailer dealer shall apply for a fair, show or exhibition permit on an application form prescribed by the department. The application shall include the dealer’s name, address and license number and the following information about the fair, show or exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

425.26(6) Display of permit. The motor vehicle or travel trailer dealer shall display the permit at the fair, show or exhibition in close proximity to the vehicles being exhibited.

425.26(7) Variance. Rescinded IAB 11/7/07, effective 12/12/07.

425.26(8) Display without permit. Rescinded IAB 7/10/02, effective 8/14/02.

This rule is intended to implement Iowa Code subsections 322.5(2) and 322C.3(9).
761—425.27 and 425.28  Reserved.

761—425.29(322) Classic car permit. A classic car permit allows a motor vehicle dealer to display and sell classic cars at a specified county fair, vehicle show or vehicle exhibition that is held in the same county as the motor vehicle dealer’s principal place of business. “Classic car” is defined in Iowa Code subsection 322.5(3).

  425.29(1) The permit period is the duration of the event, not to exceed five days. The permit is valid on Sundays. Only one permit may be issued to each motor vehicle dealer for an event. No more than three permits may be issued to a motor vehicle dealer in any one calendar year.

  425.29(2) Application for a classic car permit shall be made on a form prescribed by the department. The application shall include the dealer’s name, address and license number and the following information about the county fair, vehicle show or vehicle exhibition: name, location, sponsor(s) and duration, including the opening and closing dates.

  425.29(3) The motor vehicle dealer shall display the permit in a prominent place at the location of the county fair, vehicle show or vehicle exhibition.

This rule is intended to implement Iowa Code subsection 322.5(3).

761—425.30(322) Motor truck display permit. Application for a permit under Iowa Code subsection 322.5(4) shall be made on a form prescribed by the department. The application shall include information or documentation showing that the nonresident motor vehicle dealer is eligible for issuance of a permit and that the event meets the statutory conditions for permit issuance.

This rule is intended to implement Iowa Code subsection 322.5(4).

761—425.31(322) Firefighting and rescue show permit.

  425.31(1) Application for a firefighting and rescue show permit shall be made on a form prescribed by the department. The application shall include the name, address and license number of the applicant, the type of vehicles being displayed, and the following information about the vehicle show or exhibition: name, location, sponsor(s), and duration, including the opening and closing dates.

  425.31(2) The permit is not valid on Sundays. Only one permit shall be issued to each licensee for an event.

  425.31(3) The permit holder shall display the permit in a prominent place at the location of the vehicle show or exhibition.

This rule is intended to implement Iowa Code subsection 322.5(5).

[ARC 9848B, IAB 9/8/10, effective 10/13/10]

761—425.32 to 425.39  Reserved.

761—425.40(322) Salespersons of dealers.

  425.40(1) Every motor vehicle and travel trailer dealer shall:

     a. Keep a current written record of all salespersons acting in its behalf. The record shall be open to inspection by any peace officer or any employee of the department.

     b. Maintain a current record of authorized persons allowed to sign all documents required under Iowa Code chapter 321 for vehicle sales.

  425.40(2) No person shall either directly or indirectly claim to represent a dealer unless the person is listed as a salesperson by that dealer.

This rule is intended to implement Iowa Code sections 322.3, 322.13, and 322C.4.

761—425.41 to 425.49  Reserved.

761—425.50(322) Manufacturers, distributors, and wholesalers. This rule applies to the licensing of manufacturers, distributors, and wholesalers of new motor vehicles and travel trailers.

  425.50(1) Application for license. To apply for a license, the applicant shall complete an application form prescribed by the department. A list of the applicant’s franchised dealers in Iowa and a sample
copy of a completed manufacturer’s certificate of origin that is issued by the firm shall accompany the application. A distributor or wholesaler shall also provide a copy of written authorization from the manufacturer to act as its distributor or wholesaler.

425.50(2) Licensing requirements.


b. New motor homes delivered to Iowa dealers must contain the systems and meet the standards specified in Iowa Code paragraph 321.1(36C) “d.”

c. A licensee shall ensure that any new retail outlet is properly licensed as a dealer before any vehicles are delivered to the outlet.

d. A licensee shall notify the office of vehicle services in writing at least ten days prior to any:

   (1) Change in name, location or method of doing business, as shown on the license.

   (2) Issuance of a franchise to a dealer in this state to sell new vehicles at retail.


   (4) Change in the trade name of a travel trailer manufactured for delivery in this state.

   e. A licensee shall notify the office of vehicle services in writing at least ten days before any new make of vehicle is offered for sale at retail in this state.

   This rule is intended to implement Iowa Code sections 322.27 to 322.30 and 322C.7 to 322C.9.


761—425.52(322) Used vehicle wholesalers. Rescinded IAB 11/7/07, effective 12/12/07.

761—425.53(322) Wholesaler’s financial liability coverage. A new motor vehicle wholesaler shall certify on the license application that it has the required financial liability coverage in the limits set forth in Iowa Code section 322.27A. It is the wholesaler’s responsibility to ensure that the required financial liability coverage is continuous with no lapse in coverage as long as the wholesaler maintains a valid wholesaler’s license.

   This rule is intended to implement Iowa Code section 322.27A.

761—425.54 to 425.59 Reserved.

761—425.60(322) Right of inspection.

425.60(1) Peace officers have the authority to inspect vehicles or component parts of vehicles, business records, and manufacturers’ certificates of origin, certificates of title and other evidence of ownership for all vehicles offered for sale.

425.60(2) The department has the right at any time to verify compliance of a person licensed under Iowa Code chapter 322 or 322C or issued a certificate under Iowa Code section 321.59 with all statutory and regulatory requirements.

   This rule is intended to implement Iowa Code sections 321.62, 321.95, 322.13, and 322C.1.

761—425.61 Reserved.

761—425.62(322) Denial, suspension or revocation.

425.62(1) The department may deny an application or suspend or revoke a certificate or license if the applicant, certificate holder or licensee fails to comply with the applicable provisions of this chapter of rules, Iowa Code sections 321.57 to 321.63 or Iowa Code chapter 322 or 322C.

425.62(2) The department may deny a dealer’s application for a fair, show or exhibition permit for a period not to exceed six months if the dealer fails to comply with the applicable provisions of rule 761—425.26(322) or Iowa Code subsection 322.5(2) or 322C.3(9).

425.62(3) The department may deny a motor vehicle dealer’s application for a demonstration permit for a period not to exceed six months if the dealer fails to comply with rule 761—425.72(321).

425.62(4) The department shall send notice by certified mail to a person whose certificate, license or permit is to be revoked, suspended, canceled or denied. The notice shall be mailed to the person’s
mailing address as shown on departmental records or, if the person is currently licensed, to the principal place of business, and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle services at the address in subrule 425.1(2). The request shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation or denial.

This rule is intended to implement Iowa Code chapter 17A and sections 321.57 to 321.63, 322.6, 322.9, 322.31, and 322C.6.

[ARC 9048B, IAB 9/8/10, effective 10/13/10]

761—425.63 to 425.69 Reserved.

761—425.70(321) Dealer plates.

425.70(1) Definition. The definitions of “dealer” and “vehicle” in Iowa Code section 321.1 apply to this rule.

425.70(2) Persons who may be issued dealer plates. Dealer plates as provided in Iowa Code sections 321.57 to 321.63 may be issued to:

a. Licensed motor vehicle dealers.

b. Licensed travel trailer dealers.

c. A person engaged in the business of buying, selling or exchanging trailer-type vehicles subject to registration under Iowa Code chapter 321, other than travel trailers, and who has an established place of business for such purpose in this state.

d. Insurers selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement. The plates shall display the words “limited use.”

e. Persons selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired or repossessed by them in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations, and who are not required to be licensed dealers. The plates shall display the words “limited use.”

f. Persons engaged in the business of selling special equipment body units which have been or will be installed on motor vehicle chassis not owned by them, solely for the purpose of delivering, testing or demonstrating the special equipment body and the motor vehicle. The plates shall display the words “limited use.”

g. A licensed manufacturer of ambulances, rescue vehicles or fire vehicles, solely for the purpose of transporting, demonstrating, showing or exhibiting the vehicles. The plates shall display the words “limited use.”

h. A licensed wholesaler who is also licensed as a motor vehicle dealer as specified in paragraph 425.70(3)“e.”

425.70(3) Use of dealer plates.

a. Dealer plates shall not be displayed on vehicles that are rented or loaned. However, a dealer plate may be displayed on a motor vehicle, other than a truck or truck tractor, loaned to a customer of a licensed motor vehicle dealer while the customer’s motor vehicle is being serviced or repaired by the dealer.

b. Motor vehicles used by dealers, manufacturers or distributors to transport other vehicles shall be registered, except when being transported from the place of manufacturing, assembling or distribution to a dealer’s place of business.

c. Saddle-mounted vehicles being transported shall display dealer plates.

d. Dealer plates may be displayed on a trailer carrying a load, provided the truck or truck tractor towing the trailer is properly registered under Iowa Code section 321.122, except as provided in rule 761—425.72(321).
e. Dealer plates may be used by a dealer licensed as a wholesaler for a new motor vehicle model when operating a new motor vehicle of that model if the motor vehicle is owned by the wholesaler and is operated solely for the purpose of demonstration, show or exhibition.

This rule is intended to implement Iowa Code sections 321.57 to 321.63.

761—425.71 Reserved.

761—425.72(321) Demonstration permits.

425.72(1) Demonstration permits may be issued by motor vehicle dealers to permit the use of dealer plates for the purpose of demonstrating the load capabilities of motor trucks and truck tractors. A demonstration permit must be issued on a form prescribed by the department.

425.72(2) The dealer shall complete the permit. The information to be filled out includes, but is not limited to, the following:

a. Date of issuance by the dealer, date of expiration, and the specific dates for which the permit is valid. The expiration date shall be five days or less from the date of issuance.

b. Dealer’s name, address and license number.

c. Name(s) of the prospective buyer(s) and all prospective drivers.

d. Route of the demonstration trip. The points of origin and destination shall be the dealership. The permit is not valid for a route outside Iowa.

e. The make, year and vehicle identification number of the motor vehicle being demonstrated.

425.72(3) The permit shall at all times be carried in the motor vehicle to which it refers and shall be shown to any peace officer upon request.

425.72(4) Only one demonstration permit per motor vehicle shall be issued for a prospective buyer.

425.72(5) The demonstration permit is valid only for a movement that does not exceed the legal length, width, height and weight restrictions. The permit is not valid for an overdimensional or overweight movement.

This rule is intended to implement Iowa Code sections 321.57 to 321.63.

[761—Chapter 420 appeared as Ch 10, Department of Public Safety, 1973 IDR]

[Filed 7/1/75]
[Filed 7/17/75, Notice 8/24/75—published 11/16/75, effective 12/21/77]
[Filed 11/22/77, Notice 10/5/77—published 12/14/77, effective 1/18/78]
[Filed 5/9/78, Notice 3/22/78—published 5/31/78, effective 7/5/78]
[Filed 7/10/78, Notice 8/23/78—published 11/1/78, effective 12/6/78]
[Filed 2/14/80, Notice 12/26/79—published 3/5/80, effective 4/9/80]
[Filed 9/9/81, Notice 7/22/81—published 9/30/81, effective 11/4/81]
[Filed 1/28/82, Notice 12/9/81—published 2/17/82, effective 3/24/82]
[Filed 1/21/83, Notice 12/8/82—published 2/16/83, effective 3/23/83]
[Filed emergency 2/17/83—published 3/16/83, effective 3/23/83]
[Filed 9/4/85, Notice 7/17/85—published 9/25/85, effective 10/30/85]
[Filed emergency 10/23/86—published 11/19/86, effective 10/24/86]
[Filed 1/6/87, Notice 11/19/86—published 1/28/87, effective 3/4/87]
[Filed emergency 11/30/89—published 12/27/89, effective 12/1/89]
[Filed 12/5/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]
[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]
[Filed 1/14/93, Notice 11/25/92—published 2/3/93, effective 3/10/93]
[Filed 12/16/93, Notice 11/10/93—published 1/5/94, effective 2/9/94]
[Filed 6/19/96, Notice 1/17/96—published 7/17/96, effective 8/21/96]
[Filed 3/5/97, Notice 1/29/97—published 3/26/97, effective 4/30/97]
[Filed 12/17/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]
Two or more ARCs
CHAPTER 520
REGULATIONS APPLICABLE TO CARRIERS
[Prior to 6/3/87, Transportation Department[820]—(07.F) Ch 8]

761—520.1(321) Safety and hazardous materials regulations.

520.1(1) Regulations.


c. Copies of regulations. Copies of the federal regulations may be reviewed at the state law library or through the Internet at http://www.fmcsa.dot.gov.

520.1(2) Carriers subject to regulations.

a. Operators of commercial vehicles, as defined in Iowa Code section 321.1, are subject to the Federal Motor Carrier Safety Regulations adopted in this rule unless exempted under Iowa Code section 321.449.

b. Operators of vehicles transporting hazardous materials in commerce are subject to the Federal Hazardous Materials Regulations adopted in this rule unless exempted under Iowa Code section 321.450.

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 100-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

520.1(3) Declaration of knowledge of regulations. Operators of commercial vehicles who are subject to the regulations adopted in this rule shall at the time of application for authority to operate in Iowa or upon receipt of their Iowa registration declare knowledge of the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations adopted in this rule.

This rule is intended to implement Iowa Code sections 321.1, 321.449 and 321.450.


761—520.2(321) Definitions. The following definitions apply to the regulations adopted in rule 761—520.1(321):

“Any requirements which impose any restrictions upon a person” as used in Iowa Code section 321.449(6) means the requirements in 49 CFR Parts 391 and 395.

“Driver age qualifications” as used in Iowa Code section 321.449(3) means the age qualifications in 49 CFR 391.11(b)(1).

“Driver qualifications” as used in Iowa Code section 321.449(2) means the driver qualifications in 49 CFR Part 391.

“Farm customer” as used in Iowa Code section 321.450(3) means a retail consumer residing on a farm or in a rural area or city with a population of 3000 or less.

“Hours of service” as used in Iowa Code section 321.449(2) means the hours of service requirements in 49 CFR Part 395.

“Record-keeping requirements” as used in Iowa Code section 321.449(2) means the record-keeping requirements in 49 CFR Part 395.

“Rules adopted under this section concerning physical and medical qualifications” as used in Iowa Code sections 321.449(5) and 321.450(2) means the regulations in 49 CFR 391.11(b)(4) and 49 CFR Part 391, Subpart E.
“Rules adopted under this section for a driver of a commercial vehicle” as used in Iowa Code section 321.449(4) means the regulations in 49 CFR Parts 391 and 395.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[ARC 2019C, IAB 6/10/15, effective 7/15/15]

761—520.3(321) Motor carrier safety regulations exemptions.

520.3(1) The following intrastate vehicle operations are exempt from the motor carrier safety regulations concerning inspection in 49 CFR Part 396.17 as adopted in rule 761—520.1(321):

a. Implements of husbandry including nurse tanks as defined in Iowa Code section 321.1.
b. Special mobile equipment (SME) as defined in Iowa Code section 321.1.
c. Unregistered farm trailers as defined in rule 761—400.1(321), pursuant to Iowa Code section 321.123.
d. Motor vehicles registered for a gross weight of five tons or less when used by retail dealers or their employees to deliver hazardous materials, fertilizers, petroleum products and pesticides to farm customers.

520.3(2) Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.123, 321.449 and 321.450.

[ARC 2019C, IAB 6/10/15, effective 7/15/15]

761—520.4(321) Hazardous materials exemptions. These exemptions apply to the regulations adopted in rule 761—520.1(321):

520.4(1) Pursuant to Iowa Code section 321.450(3), “retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a one-hundred-mile radius of their retail place of business” are exempt from 49 CFR 177.804; and, pursuant to Iowa Code section 321.449(4), they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, 396 and 397.

520.4(2) Rescinded IAB 3/10/99, effective 4/14/99.

This rule is intended to implement Iowa Code section 321.450.

[ARC 2019C, IAB 6/10/15, effective 7/15/15]

761—520.5(321) Safety fitness.

520.5(1) New motor carrier safety audits. Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier’s place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

520.5(2) Motor carrier compliance reviews. Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier’s place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

761—520.6(321) Out-of-service order. A person shall not operate a commercial vehicle or transport hazardous material in violation of an out-of-service order issued by an Iowa peace officer. An out-of-service order for noncompliance shall be issued when either the vehicle operator is not qualified to operate the vehicle or the vehicle is unsafe to be operated until required repairs are made. The out-of-service order shall be consistent with the North American Uniform Out-of-Service Criteria.

This rule is intended to implement Iowa Code sections 321.3, 321.208A, 321.449, and 321.450.
761—520.7(321) Driver’s statement. A “driver” as used in Iowa Code sections 321.449(5) and 321.450(2) shall carry at all times a notarized statement of employment. The statement shall include the following:

1. The driver’s name, address and social security number;
2. The name, address and telephone number of the driver’s pre-July 29, 1996, employer;
3. A statement, signed by the pre-July 29, 1996, employer or the employer’s authorized representative, that the driver was employed to operate a commercial vehicle only in Iowa; and
4. A statement showing the driver’s physical or medical condition existed prior to July 29, 1996.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[ARC 2019C, IAB 6/10/15, effective 7/15/15]

761—520.8(321) Planting and harvesting periods. In accordance with the provisions of 49 CFR 395.1, the planting and harvesting periods pertaining to agricultural operations are March 15 through June 30 and October 4 through December 14.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[ARC 2019C, IAB 6/10/15, effective 7/15/15]
[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]
[Filed ARC 7750B (Notice ARC 7601B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8720B (Notice ARC 8555B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]
[Filed ARC 0034C (Notice ARC 9973B, IAB 1/11/12), IAB 3/7/12, effective 4/11/12]
[Filed ARC 0660C (Notice ARC 0591C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 2019C (Notice ARC 1922C, IAB 4/1/15), IAB 6/10/15, effective 7/15/15]
[Filed ARC 2525C (Notice ARC 2401C, IAB 2/17/16), IAB 5/11/16, effective 6/15/16]
[Filed ARC 2986C (Notice ARC 2878C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]

1 Effective date of 520.1(1) "a" and "b": rescission of 520.1(2) "b": and 520.3 delayed until adjournment of the 1993 Regular Session of the General Assembly by the Administrative Rules Review Committee at its meeting held October 14, 1992; delay lifted by the Committee November 10, 1992.
CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY
[Prior to 6/3/87, Transportation Department][820]—(07,F)Ch 5


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[ARC 7901B, IAB 7/1/09, effective 8/5/09; ARC 8837B, IAB 6/16/10, effective 7/21/10; ARC 0136C, IAB 5/30/12, effective 7/4/12; ARC 2986C, IAB 3/15/17, effective 4/19/17]

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be either mailed to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.

761—529.3(327B) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

“Special or emergency circumstances” means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as, but not limited to, pollution of natural resources, a potential fire or explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

These rules are intended to implement Iowa Code chapter 327B.

[Filed 7/15/75]
[Filed 10/17/80, Notice 8/20/80—published 11/12/80, effective 12/17/80]
[Filed emergency 7/18/85—published 8/14/85, effective 7/19/85]
[Filed emergency 3/26/92—published 4/15/92, effective 4/29/92]
[Filed 7/14/99, Notice 5/19/99—published 8/11/99, effective 9/15/99]
[Filed 5/10/00, Notice 4/5/00—published 5/31/00, effective 7/5/00]
[Filed 3/7/01, Notice 1/10/01—published 4/4/01, effective 5/9/01]
[Filed 12/19/01, Notice 11/14/01—published 1/23/02, effective 2/27/02]
[Filed 3/13/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 3/26/03, Notice 2/5/03—published 4/16/03, effective 5/21/03]
[Filed 4/21/04, Notice 3/17/04—published 5/12/04, effective 6/16/04]
[Filed 4/15/05, Notice 2/16/05—published 5/11/05, effective 6/15/05]
[Filed 9/14/05, Notice 8/3/05—published 10/12/05, effective 11/16/05]
[Filed 4/19/06, Notice 3/15/06—published 5/10/06, effective 6/4/06]
[Filed 3/21/07, Notice 2/14/07—published 4/11/07, effective 5/16/07]
[Filed 12/12/07, Notice 11/7/07—published 1/2/08, effective 2/6/08]
[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]
[Filed ARC 7901B (Notice ARC 7716B, IAB 4/22/09), IAB 7/1/09, effective 8/5/09]
[Filed ARC 8837B (Notice ARC 8668B, IAB 4/7/10), IAB 6/16/10, effective 7/21/10]
[Filed ARC 0136C (Notice ARC 0068C, IAB 4/4/12), IAB 5/30/12, effective 7/4/12]
[Filed ARC 2986C (Notice ARC 2878C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]
CHAPTERS 530 to 539
Reserved
CHAPTER 540
TRANSPORTATION NETWORK COMPANIES

761—540.1(321N) Purpose and applicability. This chapter implements the permitting and regulation requirements of Iowa Code chapter 321N, and applies to transportation network companies and transportation network company drivers. [ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.2(321N) Definitions. The definitions in Iowa Code section 321N.1 are hereby made part of and fully incorporated in this chapter. [ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.3(321N) General information.

540.3(1) Information and location. Applications, forms, electronic or otherwise, and information regarding transportation network company permits are available by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by e-mail at omes@iowadot.us; by facsimile at (515)237-3225; or on the department’s Web site at www.iowadot.gov.

540.3(2) Complaints. Complaints against transportation network companies pertaining to the provisions of Iowa Code chapter 321N and this chapter that are within the regulation and jurisdiction of the department shall be submitted in writing to the office of vehicle and motor carrier services. [ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.4(321N) Application for transportation network company permit and supporting documents.

540.4(1) Application. An application for a transportation network company permit shall be made to the office of vehicle and motor carrier services on a form designated by the department, electronic or otherwise, and prescribed for that purpose. The form shall require all of the following:

a. The transportation network company’s full legal name and tax identification number.

b. The address of the transportation network company’s principal place of business.

c. If incorporated or otherwise organized, the transportation network company’s state of incorporation or organization.

d. The name, address, telephone number and e-mail address of the person submitting the application on behalf of the transportation network company.

e. A statement confirming the transportation network company’s agreement to comply with all applicable requirements of Iowa Code chapter 321N and this chapter, signed by the transportation network company’s authorized representative.

f. The name and address of the transportation network company’s agent for service of process in the state of Iowa.

g. The name by which the transportation network company will do business in the state of Iowa, if different from the transportation network company’s full legal name.

h. A description of the transportation network company’s digital network and the means or manner by which it may be accessed by the transportation network company’s drivers and riders. This paragraph is not intended to and shall not be construed as requiring the disclosure of information proprietary to the transportation network company.

i. The name, address, telephone number and e-mail address of the person through whom the department may coordinate examination of the transportation network company’s records as required by Iowa Code section 321N.2(5).

540.4(2) Application fee. An application for a transportation network company permit shall be accompanied by the fee required by Iowa Code section 321N.2. The fee shall be made payable to the Iowa Department of Transportation by cash, check, money order, or other means acceptable to, and offered by, the department.
540.4(3) Supporting documents. An application for a transportation network company permit shall be accompanied by the following:

a. Proof of compliance with the financial responsibility requirements of Iowa Code section 321N.4. Proof of compliance shall be submitted by providing a valid certificate of coverage from an insurer governed by Iowa Code chapter 515 or 518, or by a surplus lines insurer governed by Iowa Code chapter 515I. The certificate of coverage shall demonstrate coverage in the amounts and circumstances required by Iowa Code section 321N.4, and shall certify that if insurance maintained by a transportation network company driver under Iowa Code chapter 321N lapses or does not provide coverage in the amounts or types required by Iowa Code section 321N.4, subsection 2 or 3, the insurance certified in the certificate of coverage shall provide coverage in the amounts and types required by Iowa Code section 321N.4, subsection 2 or 3, beginning with the first dollar of the claim, and the insurer providing such coverage shall defend the claim. The certificate of coverage shall also certify that the coverage therein is not dependent on the insurer of a transportation network company driver’s personal vehicle first denying a claim, and does not require the insurer of a personal automobile insurance policy to first deny a claim to trigger coverage and defense under the coverage certified.

b. Proof that the transportation network company has established a zero tolerance policy for the use of drugs and alcohol as provided in Iowa Code section 321N.3(5). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

c. Proof that the transportation network company has adopted and is enforcing nondiscrimination and accessibility policies. As used herein, “nondiscrimination policy” means a policy that prohibits discrimination against transportation network company riders on the basis of race, age, disability, religion, color, sex, or national origin. “Accessibility policy” means a policy that prohibits discrimination against and assures equal opportunity and access to transportation network company riders who are persons with disabilities under the Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008 (P.L. 110-325) codified at 42 U.S.C. 12101 et. seq. The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

d. Proof that the transportation network company has established record retention guidelines that comply with the requirements of Iowa Code section 321N.2(2). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to the designated records retention officer or responsible staff and the manner or means by which the policy is enforced.

e. Proof that the transportation network company has established a means for informing persons seeking approval to serve as transportation network company drivers of their notification obligations under Iowa Code section 321N.3(2). The transportation network company shall provide a copy of the disclosure form used by the transportation network company to inform such persons of the notification obligations under Iowa Code section 321N.3(2) and an explanation of the manner or means by which the disclosure form is made known to and signed by such persons.

f. Proof that the transportation network company has established a means for making the automobile insurance disclosures required by Iowa Code section 321N.5 to persons serving as transportation network company drivers. The transportation network company shall provide a copy of the written disclosure used by the transportation network company and an explanation of the manner or means by which the written disclosure is made known to transportation network company drivers.

g. Proof that the transportation network company has established a means for making the driver and vehicle disclosures required by Iowa Code section 321N.7 to transportation network company riders. The transportation network company shall provide an explanation of the manner or means by which the disclosure is made known to transportation network company riders.

h. Proof that the transportation network company has established a means for transmitting an electronic receipt to transportation network company riders as required by Iowa Code section 321N.8.
The transportation network company shall include a sample, representative receipt and an explanation of the manner or means by which the receipt is delivered and the time frame within which the receipt is delivered.

   i. If incorporated or organized, a copy of the transportation network company’s certificate of good standing from the transportation network company’s state of incorporation or organization.

   j. Other such documents as requested by the department.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.5(321N) Issuance of permit. A transportation network company shall not operate or conduct business in the state of Iowa without a valid permit issued under this chapter. Upon submission of a completed application package as set forth in rule 761—540.4(321N), the department shall process the package and shall inform the transportation network company of the package’s status no later than 30 days after the department receives the package. Application package statuses for the purpose of this rule are as follows: “in process,” “granted,” and “denied.” If the department informs a transportation network company that the application is “in process,” then the department shall also inform the transportation network company of the reason for the status. If the department determines that the transportation network company is in compliance with the provisions of Iowa Code chapter 321N and this chapter, the department shall issue a permit to the transportation network company. A permit, when issued, shall be valid for one year. The department may deny issuance of the permit if the department determines, and evidence demonstrates, that the transportation network company is not in compliance or is not able to comply with the provisions of Iowa Code chapter 321N or this chapter.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.6(321N) Amendment to transportation network company permit. If during the period the permit is valid any information required and presented in the application under paragraph 540.4(1)“a,” “b,” “c,” “f,” “g” or “i” changes, the transportation network company shall notify the office of vehicle and motor carrier services of the change in writing, within 30 days after the change. Notification shall include the permit number and a recitation of the information that has changed and that should be updated in the department’s records. Submission of amended information is not a request for a new permit or for permit approval and shall not extend the period the permit is valid. Upon determination that the information submitted is complete and correct, the department shall update its records and issue an amended permit, if the department determines it is necessary.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.7(321N) Suspension. If the department determines that the transportation network company has violated Iowa Code chapter 321N or this chapter and the violation is more than an isolated event and remains uncorrected, the department shall issue to the transportation network company a written notice of the violation. The written notice shall specify the violation and shall advise the transportation network company that failure to remedy the violation and to comply with the applicable requirements within 30 days shall result in the issuance of a written notice of suspension of the permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa. If the transportation network company fails to remedy the violation within 30 days, the department shall issue to the transportation network company a written notice of suspension of the permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa, which shall be effective 30 days after service of the written notice of suspension. Once effective, the suspension shall remain in effect until the transportation network company demonstrates to the department that it is in compliance with the applicable requirements or the permit is revoked or expires, whichever occurs first.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.8(321N) Revocation. If the department determines that the transportation network company is in continued noncompliance with Iowa Code chapter 321N or this chapter, the department shall revoke the transportation network company’s permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa. Notice of revocation shall be in writing, shall
specify the continued noncompliance, and shall be effective 30 days after service of the written notice of revocation. The period of revocation shall be for at least 90 days, and shall continue thereafter until the following criteria are satisfied: (1) The transportation network company submits a new application, application fee, and supporting documents under rule 761—540.4(321N), and (2) the department determines a new permit should be issued, pursuant to rule 761—540.5(321N). As used in this rule, “continued noncompliance” means a violation of Iowa Code chapter 321N or this chapter for which a notice of suspension has become effective and has remained in effect for a period of at least 180 days.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.9(321N) Appeal.

540.9(1) A transportation network company whose permit has been suspended, revoked, or denied may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

540.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address indicated in subrule 540.3(1), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within 20 days of service of the notice of suspension, revocation, or denial. Failure to contest denial of a permit application does not preclude the transportation network company from submitting a new application for a permit at any time after the denial.

540.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer’s proposed decision regarding a suspension or revocation, the department shall stay the suspension or revocation pending resolution of the informal resolution, contested case, or appeal.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

761—540.10(321N) Renewal.

540.10(1) A transportation network company that has been issued and holds a valid permit may renew the permit by submitting, at minimum, the following: (1) the application, (2) the application fee and (3) the supporting documents as set forth in rule 761—540.4(321N). The application for renewal must be submitted no more than 60 days before the expiration date of the existing permit and no fewer than 30 days before the expiration date of the existing permit.

540.10(2) Pursuant to Iowa Code section 17A.18(2), when a transportation network company has made a timely and sufficient application for the renewal of a valid permit, the existing permit does not expire until the application has been finally determined by the department, and, in case the application is denied or the terms of the new permit are limited, until the last day for seeking judicial review of the department’s order or a later date fixed by order of the department or the reviewing court.

540.10(3) If the application for renewal is submitted fewer than 30 days before the expiration date of the existing permit, then the application shall be considered a new application and Iowa Code section 17A.18(2) shall not apply. If a transportation network company does not file a renewal application pursuant to this rule, then the original application shall expire on the expiration date set forth on the original permit.

540.10(4) If a transportation network company initiates an appeal, informal settlement, or contested case proceeding pursuant to rule 761—540.9(321N) and the original application expires pursuant to the expiration date of the application, then the transportation network company shall be required to submit a renewal application pursuant to subrule 540.10(1) if the transportation network company intends to hold a valid permit under this chapter once the appeal, informal settlement, or contested case proceeding has been finally determined.

[ARC 2987C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code chapter 321N.

[Filed ARC 2987C (Notice ARC 2907C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
CHAPTERS 541 to 599
Reserved
CHAPTER 602
CLASSES OF DRIVER’S LICENSES

761—602.1(321) Driver’s licenses.

602.1(1) Classes. The department issues the following classes of driver’s licenses. All licenses issued, including special licenses and permits, shall carry a class designation. A license shall be issued for only one class, except that Class M may be issued in combination with another class.

- Class A—commercial driver’s license (CDL)
- Class B—commercial driver’s license (CDL)
- Class C—commercial driver’s license (CDL)
- Class D—noncommercial driver’s license
- Class M—noncommercial driver’s license (motorcycle)

602.1(2) Special licenses and permits. The department issues the following special licenses and permits. More than one type of special license or permit may be issued to an applicant. On the driver’s license, a restriction number designates the type of special license or permit issued, as follows:

1—Motorcycle instruction permit—includes motorcycle instruction permits issued under Iowa Code subsections 321.180(1) and 321.180B(1)
2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)—includes instruction permits, other than motorcycle instruction permits, issued under Iowa Code subsection 321.180(1), section 321.180A and subsection 321.180B(1)
3—Commercial learner’s permit
4—Chaufeur’s instruction permit
5—Motorized bicycle license
6—Minor’s restricted license
7—Minor’s school license

602.1(3) Commercial driver’s license (CDL). See 761—Chapter 607 for information on the procedures, requirements and validity of a commercial driver’s license (Classes A, B and C) and a commercial learner’s permit, and their restrictions and endorsements.

This rule is intended to implement Iowa Code sections 321.178, 321.180, 321.180A, 321.180B, 321.189, and 321.194.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2644C, IAB 8/3/16, effective 9/7/16]

761—602.2(321) Information and forms. Applications, forms and information about driver’s licensing are available at any driver’s license examination station or on the department’s Web site at www.iowadot.gov. Assistance is also available at the address in rule 761—600.2(17A).

602.2(1) Certificate of completion. Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education.

a. If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

b. If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form after the student completes the missing components.

602.2(2) Affidavit for school license. Form 430021 shall be used for submitting the required statements, affidavits and parental consent for a minor’s school license. See rule 761—602.26(321).

602.2(3) Waiver of accompanying driver for intermediate licensee. Form 431170 is the waiver described in Iowa Code subsection 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee’s possession when the licensee is driving during the hours to which the waiver applies.

a. If the waiver is for employment, the form must be signed by the licensee’s employer.
b. If the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent.

c. The form must be signed by the licensee’s parent or guardian. However, the parent’s or guardian’s signature is not required if the licensee is married and the original or a certified copy of the marriage certificate is in the licensee’s possession when the licensee is driving during the hours to which the waiver applies.

602.2(4) Passenger restriction for intermediate licensee. The passenger restriction required by Iowa Code subsection 321.180B(2) will be added to an intermediate license unless waived by the licensee’s parent or guardian at the time the license is issued. If the restriction is not waived at the time the license is issued, the intermediate license will be designated with a “9” restriction with the following notation: “Only 1 unrelated minor passenger allowed until [six months from the date the license is issued].” The licensee must obey the restriction for the first six months after the intermediate license is issued. If a parent or guardian wishes to waive the passenger restriction after the license has already been issued, the licensee and the parent or guardian must apply for a duplicate license and pay the replacement fee pursuant to 761—subrule 605.11(3).

This rule is intended to implement Iowa Code sections 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 2644C, IAB 8/3/16, effective 9/7/16]

761—602.3(321) Examination and fee. Rescinded IAB 8/9/00, effective 7/24/00.

761—602.4(321) Definitions of immediate family.

602.4(1) A “member of the permittee’s immediate family” as used in Iowa Code subsection 321.180(1) means the permittee’s parent or guardian or a brother, sister or other relative of the permittee who resides at the permittee’s residence.

602.4(2) A “member of the permittee’s immediate family” as used in Iowa Code section 321.180B, subsections 1 and 2, means a brother, sister or other relative of the permittee who resides at the permittee’s residence.

This rule is intended to implement Iowa Code sections 321.180 and 321.180B.

761—602.5 to 602.10 Reserved.

761—602.11(321) Class C noncommercial driver’s license. This rule describes a noncommercial Class C driver’s license that is not a special license or permit.

602.11(1) Validity and issuance.

a. The license is valid for operating:

(1) A motor vehicle, including an autocycle as defined in Iowa Code section 321.1, that does not require a commercial driver’s license or a Class D driver’s license for its operation.

(2) A motorized bicycle.

(3) A motorcycle only if the license has a motorcycle endorsement.

b. The license is issued for either two years or eight years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet 72 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee’s 74th birthday.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 72 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

602.11(2) Requirements.

a. An applicant shall be at least 16 years of age.
b. Except as otherwise provided in Iowa Code subsection 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of an Iowa-approved course in driver education.

c. For purposes of determining eligibility for an intermediate license issued to a person 16 or 17 years of age under Iowa Code subsection 321.180B(2):

   (1) The 12-month period during which the applicant is required to possess an instruction permit before applying for an intermediate license shall be calculated cumulatively and shall include any period of time during which the applicant has held a valid instruction permit issued under Iowa Code subsection 321.180B(1), a minor’s school license issued under Iowa Code section 321.194, or comparable instruction permit or license issued by another state, but shall exclude any period of time during which the permit or license is suspended, revoked, or canceled, or the applicant otherwise did not have a valid driving privilege.

   (2) The six-month period during which the applicant is required to remain accident and violation free shall be calculated continuously and must encompass without interruption the six-month period of time immediately preceding the application. The applicant must hold a valid instruction permit issued under Iowa Code subsection 321.180B(1), a minor’s school license issued under Iowa Code section 321.194, or a comparable instruction permit or license issued by another state and maintain a valid driving privilege without interruption throughout the continuous six-month period.

d. For purposes of determining eligibility for a full license issued to a person 17 years of age under Iowa Code subsection 321.180B(4), the 12-month period during which the applicant is required to possess an intermediate license and to remain accident and violation free before applying for a full license shall be calculated together and continuously and must encompass without interruption the 12-month period of time immediately preceding the application. The applicant must hold a valid intermediate license issued under Iowa Code subsection 321.180B(2) or a comparable license issued by another state and maintain a valid driving privilege without interruption throughout the continuous 12-month period.

   This rule is intended to implement Iowa Code sections 321.1, 321.177, 321.178, 321.180B, 321.189 and 321.196.

[ARC 1714C, IAB 11/12/14, effective 12/17/14; ARC 2644C, IAB 8/3/16, effective 9/7/16; ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—602.12(321) Class D noncommercial driver’s license (chauffeur). This rule describes a noncommercial Class D driver’s license.

602.12(1) Validity and issuance.

   a. The license is valid for operating:

      (1) A motor vehicle as a chauffeur as specified by the endorsement on the license, unless the type of vehicle or type of operation requires a commercial driver’s license.

      (2) A motor vehicle that may be legally operated under a noncommercial Class C driver’s license, including a motorized bicycle.

      (3) A motorcycle only if the license has a motorcycle endorsement.

   b. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule 605.4(3). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

   c. The license is issued for either two years or eight years.

      (1) A qualified applicant who is at least 18 years of age but not yet 72 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee’s 74th birthday.

      (2) A two-year license shall be issued to a qualified applicant who is 72 years of age or older.

      (3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

602.12(2) Requirements.

   a. An applicant shall be at least 18 years of age.
b. Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.177, 321.189, and 321.196.

[ARC 1714C, IAB 11/12/14, effective 12/17/14; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16]

761—602.13(321) Class M noncommercial driver’s license (motorcycle). This rule describes a noncommercial Class M driver’s license that is not a special license or permit.

602.13(1) Validity and issuance.

a. The license is valid for operating:
   (1) A motorcycle. However, the license may have a restriction which limits operation to a three-wheel motorcycle.
   (2) A motorized bicycle.

b. The license is issued for either two years or eight years.
   (1) A qualified applicant who is at least 17 years, 11 months of age but not yet 72 years of age shall be issued an eight-year license. However, the expiration date of the license issued shall not exceed the licensee’s 74th birthday.
   (2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 72 years of age or older.
   (3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

c. An Iowa driver’s license issued before March 15, 1968, which is still valid because of an extension, is valid for motorcycles. An Iowa driver’s license issued from March 15, 1968, through June 30, 1972, which is still valid because of an extension, is valid for motorcycles unless the back of the license is stamped “Not valid for motorcycles.”

602.13(2) Requirements.

a. An applicant shall be at least 16 years of age.

b. Except as otherwise provided in Iowa Code subsection 321.178(3), an applicant under 18 years of age must meet the requirements of Iowa Code section 321.180B and submit proof of successful completion of an Iowa-approved course in driver education.

c. An applicant under 18 years of age must submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.180B, 321.189 and 321.196.

[ARC 1714C, IAB 11/12/14, effective 12/17/14]

761—602.14(321) Transition from five-year to eight-year licenses. During the period January 1, 2014, to December 31, 2018, the department shall issue qualified applicants otherwise eligible for an eight-year license a five-year, six-year, seven-year, or eight-year license, subject to all applicable limitations for age and ability. The applicable period shall be randomly assigned to the applicant by the department’s computerized issuance system based on a distribution formula intended to spread renewal volumes as equally as practical over the eight-year period beginning January 1, 2019, and ending December 31, 2026.

This rule is intended to implement Iowa Code section 321.196 and 2013 Iowa Acts, chapter 104, section 2.

[ARC 1714C, IAB 11/12/14, effective 12/17/14]

761—602.15(321) Minor’s restricted license. Renumbered as 761—602.25(321)IAB 1/8/92, effective 2/12/92.

761—602.16(321) Temporary instruction permit. Rescinded IAB 1/8/92, effective 2/12/92.

761—602.17(321) Minor’s school license. Renumbered as 761—602.26(321)IAB 1/8/92, effective 2/12/92.
761—602.18(321) **Motorcycle instruction permit.** This rule describes a motorcycle instruction permit issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.18(1) **Validity and issuance.**

a. The motorcycle instruction permit is a permit that is added to another driver’s license.

b. The permit is valid for operating a motorcycle when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is issued for four years and is not renewable.

602.18(2) **Requirement.** An applicant shall be at least 14 years of age.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

761—602.19(321) **Noncommercial instruction permit.** This rule describes a noncommercial instruction permit, other than a motorcycle instruction permit, issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.19(1) **Validity and issuance.**

a. The permit is a restricted, noncommercial Class C driver’s license.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver’s license when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is issued for four years.

602.19(2) **Requirement.** An applicant shall be at least 14 years of age.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

761—602.20 **Rescinded IAB 11/18/98, effective 12/23/98.**

761—602.21(321) **Special noncommercial instruction permit.** This rule describes a special noncommercial instruction permit issued under Iowa Code section 321.180A.

602.21(1) **Validity and issuance.**

a. The permit is a restricted, noncommercial Class C driver’s license that is issued to a person whose application for driver’s license renewal has been denied or whose driver’s license has been suspended for incapability due to a physical disability.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver’s license when the permittee is accompanied by a person specified in Iowa Code section 321.180A.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is valid for six months from the date of issuance. It is invalid after the expiration date on the permit.

f. The permit may be reissued for one additional six-month period.

602.21(2) **Requirement.** An applicant must submit a medical report pursuant to 761—subrule 600.4(6).

This rule is intended to implement Iowa Code section 321.180A.

761—602.22 **Reserved.**

761—602.23(321) **Chauffeur’s instruction permit.**

602.23(1) **Validity and issuance.**

a. A chauffeur’s instruction permit is a permit that is added to a Class D license or a noncommercial Class C license that is not a special license or permit.

b. The license with the permit is valid for operating:
(1) A motor vehicle that may be legally operated under the class of license (and for Class D, the endorsement) held by the licensee, including a motorized bicycle.

(2) A motor vehicle, other than a commercial motor vehicle or a motorcycle, as a chauffeur if accompanied by a person with a valid Class D license or a commercial driver’s license valid for the vehicle being operated.
   a. The permit is issued for two years.

602.23(2) Requirements.
   a. An applicant shall be at least 18 years of age.
   b. Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.177 and 321.180.

761—602.24(321) Motorized bicycle license.

602.24(1) Validity and issuance.
   a. A motorized bicycle license is a restricted, noncommercial Class C license.
   b. The license is valid for operating a motorized bicycle.
   c. The license is issued for two years.

602.24(2) Requirements.
   a. An applicant shall be at least 14 years of age.
   b. An applicant under 16 years of age must submit proof of successful completion of an Iowa-approved course in motorized bicycle education.

This rule is intended to implement Iowa Code sections 321.177 and 321.189.

761—602.25(321) Minor’s restricted license.

602.25(1) Validity and issuance.
   a. A minor’s restricted license is a restricted, noncommercial Class C or Class M driver’s license.
   b. The license is valid for driving to and from the licensee’s place of employment or to transport dependents to and from temporary care facilities, if necessary to maintain the licensee’s present employment.
   c. The type of motor vehicle that may be operated is controlled by the class of driver’s license issued. A Class C minor’s restricted license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A minor’s restricted license is valid for operating a motorized bicycle only for the purposes specified in paragraph “b” of this subrule.
   d. The license is issued for two years.

602.25(2) Requirements.
   a. The applicant shall be at least 16 years of age but not yet 18.
   b. The applicant shall submit to the department a statement from the employer confirming the applicant’s employment.
   c. Proof of nonattendance is required. Proof of nonattendance is receipt of notification from the appropriate school authority that the applicant does not attend school, as set out in 761—subrule 615.23(2).
   d. The applicant shall submit proof of successful completion of an Iowa-approved course in driver education.
   e. For a Class M minor’s restricted license or a motorcycle endorsement, the applicant shall also submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

This rule is intended to implement Iowa Code sections 299.1B, 321.178, 321.180B, 321.189, 321.196 and 321.213B.

761—602.26(321) Minor’s school license.

602.26(1) Validity and issuance.
   a. A minor’s school license is a restricted, noncommercial Class C or Class M driver’s license.
The license is valid during the times and for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, and at any time when the licensee is accompanied in accordance with Iowa Code subsection 321.180B(1).

c. The type of motor vehicle that may be operated is controlled by the class of driver’s license issued. A Class C minor’s school license is valid for operating a motorcycle only if the license has a motorcycle endorsement. A minor’s school license is valid for operating a motorized bicycle.

d. The license is issued for two years.

602.26(2) Requirements.

a. An applicant shall be at least 14 years of age but not yet 18 and meet the requirements of Iowa Code section 321.194.

b. An applicant shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. The statement shall be on Form 430021.

c. An applicant shall submit proof of successful completion of an Iowa-approved course in driver education.

d. For a Class M minor’s school license or a motorcycle endorsement, an applicant shall also submit proof of successful completion of an Iowa-approved course in motorcycle rider education.

602.26(3) Exemption.

a. An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a school license. “Hardship” means:

(1) If the applicant is 14 years old, that a driver education course will not begin at the applicant’s school(s) of enrollment or at a public school in the applicant’s district of residence within one year following the applicant’s fourteenth birthday; or

(2) If the applicant is 15 years old, that a driver education course will not begin at the applicant’s school(s) of enrollment or at a public school in the applicant’s district of residence within six months following the applicant’s fifteenth birthday; or

(3) If the applicant is between 16 and 18 years old, that a driver education course is not offered at the applicant’s school(s) of enrollment or at a public school in the applicant’s district of residence at the time the request for hardship status is submitted to the department; or

(4) That the applicant is permanently handicapped. In this rule, “handicapped” means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant’s health.

b. “Demonstrates to the satisfaction of the department” means that the department has received written proof that a hardship exists, signed by the applicant’s parent, custodian or guardian and by the superintendent of the applicant’s school, the chairperson of the school board, or the principal of the applicant’s school if authorized by the superintendent.

602.26(4) Multiple residences.

a. An applicant whose parents are divorced or separated and who as a result of shared custody maintains more than one residence may be authorized to operate a motor vehicle from either residence during the times and for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, provided that the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements set forth in Iowa Code subsection 321.194(3) as amended by 2016 Iowa Acts, House File 2437, section 33, as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is either within the school district that includes the applicant’s school of enrollment or is an Iowa school district contiguous to the applicant’s school of enrollment. The fact that either residence is less than one mile from the applicant’s school of enrollment shall not preclude travel to and from each residence at the times and for the purposes set forth in Iowa Code
subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, provided that need is otherwise demonstrated.

b. A minor’s school license approved for travel to and from two residences for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, shall not be valid for travel directly between each residence unless the licensee is accompanied in accordance with Iowa Code subsection 321.180B(1).

c. The primary residential address listed in the statement of necessity shall appear on the face of the license. A minor’s school license approved for travel to and from two residences shall include a “J” restriction on the face of the license, and the secondary address listed in the statement of necessity shall be listed on the reverse side of the license as part of the “J” restriction, with the following notation: “Also valid to drive to and from [secondary residential address] in compliance with 321.194.” This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

[ARC 2644C, IAB 8/3/16, effective 9/7/16]

761—602.27 to 602.29 Reserved.

761—602.30(321) Special instruction permit. Rescinded IAB 1/8/92, effective 2/12/92.

[Filed 1/20/88, Notice 12/2/87—published 2/10/88, effective 3/16/88]  
[Filed emergency 6/29/89—published 7/26/89, effective 7/31/89]  
[Filed 9/21/89, Notice 7/26/89—published 10/18/89, effective 11/22/89]  
[Filed 11/1/89, Notice 7/26/89—published 11/29/89, effective 1/3/90]  
[Filed emergency 11/30/89—published 12/27/89, effective 12/1/89]  
[Filed emergency 6/7/90—published 6/27/90, effective 7/1/90]  
[Filed 12/18/91, Notice 11/13/91—published 1/8/92, effective 2/12/92]  
[Filed 10/30/96, Notice 9/25/96—published 11/20/96, effective 12/25/96]  
[Filed emergency 7/20/00 after Notice 6/14/00—published 8/9/00, effective 7/24/00]  
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]  
[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]  
[Filed ARC 7902B (Notice ARC 7721B, IAB 4/22/09), IAB 7/1/09, effective 8/5/09]  
[Filed ARC 1714C (Notice ARC 1601C, IAB 9/3/14), IAB 11/12/14, effective 12/17/14]  
[Filed Emergency ARC 2071C, IAB 8/5/15, effective 7/14/15]  
[Filed ARC 2337C (Notice ARC 2070C, IAB 8/5/15), IAB 1/6/16, effective 2/10/16]  
[Filed ARC 2644C (Notice ARC 2544C, IAB 5/25/16), IAB 8/3/16, effective 9/7/16]  
[Filed ARC 2985C (Notice ARC 2908C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]

1 Effective date delayed 70 days by the Administrative Rules Review Committee at its March 9, 1988, meeting. Delay lifted by ARRC, April 21, 1988.
CHAPTER 604
LICENSE EXAMINATION
[Prior to 6/3/87, see Transportation Department[820]—(07.C)rules 13.3 and 13.17]

761—604.1(321) Authority and scope.

604.1(1) The department is authorized to determine by examination an applicant’s ability to operate motor vehicles safely upon the highways and to issue all driver’s licenses.

604.1(2) This chapter of rules shall apply to the examination for all driver’s licenses. Information on the additional examination procedures and requirements for a commercial driver’s license or commercial learner’s permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code sections 321.2, 321.3, 321.13, 321.177, and 321.186. [ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16]

761—604.2(321) Definitions.

“Binocular field of vision” is the sum of the temporal measurements or the sum of the nasal measurements.

“Monocular field of vision” is the sum of the temporal measurement and the nasal measurement for one eye.

“Representative vehicle” is a vehicle which is characteristic of and requires operating skills comparable to those vehicles that may legally be operated under the class of license or endorsement desired.

This rule is intended to implement Iowa Code sections 321.174 and 321.186. [ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.3(17A) Information and forms.

604.3(1) Applications, forms, and information about driver’s license examinations are available at any driver’s license examination station. Assistance is also available from the office of driver services at the address in 761—600.2(17A).

604.3(2) The “Iowa Driver Manual” and the “Iowa Motorcycle Operator Manual” are also available from the department.

This rule is intended to implement Iowa Code section 17A.3.

761—604.4 to 604.6 Reserved.

761—604.7(321) Examination.

604.7(1) An examination shall include:

a. A vision screening if the person has not filed a vision report.
b. A knowledge test of Iowa traffic laws and highway signs.
c. A driving test of the person’s ability to operate a motor vehicle.

604.7(2) The examination required for a driver’s license depends upon the class of license requested, applicable endorsements, and the qualifications of the applicant.

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

761—604.8 and 604.9 Reserved.

761—604.10(321) Vision screening.

604.10(1) Requirement. Vision screening or a vision report is required of an applicant for a driver’s license.

604.10(2) Method. At driver’s license examination stations, a vision screening instrument shall be used to screen the applicant’s vision. An applicant who has corrective lenses may be screened with or without the corrective lenses.

604.10(3) Report. A vision report shall be submitted on Form 430032 signed by a licensed vision specialist and shall report the person’s visual acuity level and field of vision as measured within 30 days prior to the date of the application. In lieu of Form 430032, a vision report signed by a licensed vision...
specialist on the specialist’s letterhead may be accepted if it contains all the information specified on
Form 430032.

604.10(4) Exception for persons renewing electronically. An applicant renewing a driver’s license
electronically pursuant to 761—subrule 605.25(7) is not required to complete a vision screen or submit
a vision report to complete the renewal. This subrule does not preclude the department from requiring
a vision screen or vision report of a person who has renewed a driver’s license electronically when the
department has reason to believe that the person is not capable of operating a motor vehicle safely.

This rule is intended to implement Iowa Code sections 321.186, 321.186A and 321.196 as amended
[ARC 9991B, IAB 2/8/12, effective 3/14/12; ARC 0895C, IAB 8/7/13, effective 7/9/13; ARC 1073C, IAB 10/2/13, effective 11/6/13]

761—604.11(321) Vision standards. The visual acuity and field of vision standards for licensing and
the applicable restrictions are as follows.

604.11(1) Visual acuity standards.
   a. When the applicant is screened without corrective lenses. If the visual acuity is 20/40 or better
      with both eyes or with the better eye, no restriction will be imposed. If the visual acuity is less than 20/40
      but at least 20/70 with both eyes or with the better eye, the applicant shall be restricted from driving when
      headlights are required.
   b. When the applicant is screened with corrective lenses. If the visual acuity is 20/40 or better
      with both eyes or with the better eye, the applicant shall be required to wear corrective lenses. If the
      visual acuity is less than 20/40 but at least 20/70 with both eyes or with the better eye, the applicant shall
      be required to wear corrective lenses and shall be restricted from driving when headlights are required.
   c. Other standards. If the visual acuity in the left eye is less than 20/100, the applicant shall be
      restricted to driving a vehicle with both left and right outside rearview mirrors. However, if the applicant
      has a visual acuity of 20/40 in the right eye and less than 20/100 in the left eye without corrective lenses
      and has corrective lenses that improve the vision in the left eye to better than 20/100, the applicant shall
      have the option of being restricted to driving with corrective lenses or driving a vehicle with both left
      and right outside rearview mirrors.

604.11(2) Field of vision standards.
   a. If the binocular field of vision is at least 140 degrees, no restriction will be imposed.
   b. If the binocular field of vision is less than 140 degrees but at least 110 degrees, or one eye has
      a monocular field of vision of at least 100 degrees, the applicant shall be restricted to driving a vehicle
      with both left and right outside rearview mirrors.

This rule is intended to implement Iowa Code sections 321.186, 321.193, and 321.196.
[ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.12(321) Vision referrals.

604.12(1) Referral.
   a. If an applicant on first screening cannot attain 20/40 but can attain 20/70 with at least one eye,
      the department shall not issue a license to the applicant. Instead, the department shall advise the applicant
to consult a licensed vision specialist.
   b. A vision report, pursuant to subrule 604.10(3), shall be required before the department will
      reconsider licensing.

604.12(2) License.
   a. The department shall affix a sticker to the applicant’s license stating: “Renewal or license
      issuance denied due to vision.”
   b. If the applicant’s license is valid for less than 30 days, the department may issue a temporary
      driving permit with restrictions appropriate to the applicant’s visual acuity level and field of vision.
      The temporary driving permit is valid for not more than 30 days from the end of the current license validity.

604.12(3) Report. If the vision report recommends a restriction, the department shall issue a
restricted license even though it would not be required by departmental standards.
604.12(4) Applicant refusal. If an applicant refuses to consult a licensed vision specialist, the department shall issue or deny the license based on the results achieved on the vision screening.

This rule is intended to implement Iowa Code sections 321.181, 321.186, 321.186A, 321.193 and 321.196.

761—604.13(321) Vision screening results.

604.13(1) Two-year license. An applicant who cannot attain a visual acuity of 20/40 with both eyes or with the better eye shall be issued a two-year license. This restriction may be waived by the department when a vision report pursuant to subrule 604.10(3) certifies that the vision has stabilized and is not expected to deteriorate.

604.13(2) License denied.

a. An applicant who cannot attain a visual acuity of 20/70 with both eyes or with the better eye shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

b. If the applicant’s binocular field of vision is less than 110 degrees, or the monocular field of vision is less than 100 degrees, the applicant shall not be licensed, subject to discretionary issuance under subrule 604.13(4).

604.13(3) Reapplication. An applicant who cannot meet the vision standards in subrule 604.13(2) may reapply when the vision improves and meets the vision standards. If a suspension or denial notice was served, reapplication must be made to the office of driver services at the address in 761—600.2(17A), and not at a driver’s license examination station.

604.13(4) Discretionary issuance.

a. An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

b. Based upon consideration of the applicant’s vision screening results or vision report, driving test and driving record, the written recommendation of the applicant’s licensed vision specialist, and traffic conditions in the vicinity of the applicant’s residence, the officer may recommend issuing a license with restrictions suitable to the applicant’s capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/199 with both eyes or with the better eye shall not be licensed.

(3) If an applicant’s binocular field of vision or monocular field of vision is less than 75 degrees, the applicant may be considered for licensing only after recommendation by the medical advisory board.

(4) An applicant who cannot attain a binocular or monocular field of vision of 21 degrees shall not be licensed.

c. The officer’s recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196. [ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—604.14 to 604.19 Reserved.

761—604.20(321) Knowledge test.

604.20(1) Written test. A knowledge test is a written test to determine an applicant’s ability to read and understand Iowa traffic laws and the highway signs that regulate, warn, and direct traffic. A test may be revised at any time but each test states the minimum passing score.

604.20(2) Three types of tests. There are three types of knowledge tests: an operator’s test, a chauffeur’s test, and a motorcycle test. The requirement for a license depends upon the class of license desired, applicable endorsements, and the qualifications of the applicant.
604.20(3) Oral test. An applicant who is unable to read or understand a written test may request an oral test. The oral test may be administered by an examiner or by an automated testing device.

This rule is intended to implement Iowa Code section 321.186.

761—604.21(321) Knowledge test requirements and waivers.

604.21(1) Knowledge test requirements. The knowledge test requirements are as follows:

a. Operator’s test. An operator’s knowledge test is required for all classes of driver’s licenses and all types of special driver’s licenses and permits.

b. Motorcycle test. A motorcycle knowledge test is required for all:

(1) Motorcycle instruction permits.
(2) Class M driver’s licenses.
(3) Motorcycle endorsements.

c. Chauffeur’s test. A chauffeur’s knowledge test is required for all:

(1) Chauffeur’s instruction permits.
(2) Class D driver’s licenses except those with an endorsement for “passenger vehicle less than 16-passenger design.”

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa driver’s license or an equivalent out-of-state license that is still valid.

b. The applicant has a valid, equivalent driver’s license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.

c. The applicant has a military extension and is renewing the applicant’s Iowa driver’s license within six months following separation from active duty.

This rule is intended to implement Iowa Code sections 321.180, 321.180A, 321.180B, 321.186, 321.189, 321.196 and 321.198.

761—604.22(321) Knowledge test results.

604.22(1) Proof of passing score. When necessary, the department shall give the applicant a form, valid for 90 days, which certifies that the applicant has passed the knowledge test.

604.22(2) Retesting. An applicant who fails a knowledge test may repeat the test at the discretion of the examiner, but at least two hours shall elapse between tests.

This rule is intended to implement Iowa Code section 321.186.

761—604.23 to 604.29 Reserved.

761—604.30(321) Driving test. A driving test is a demonstration of an applicant’s ability to exercise ordinary and reasonable control in the operation of a motor vehicle under actual traffic conditions. The test is also called a road test, field test, or driving demonstration. A motorcycle skill test is an off-street demonstration of an applicant’s ability to control the motorcycle in a set of standard maneuvers, and a motorcycle driving test is an on-street demonstration.

604.30(1) Vehicle type and safety.

a. For the driving test, the applicant shall provide a representative vehicle as defined in 761—604.2(321).

b. The examiner or other authorized personnel shall visually inspect the vehicle. If a vehicle is illegal or unsafe, or is not a representative vehicle, the examiner shall refuse to administer the test until corrections are made or an acceptable vehicle is provided.

604.30(2) Criteria and route. Form 430024, “Your Driving Test,” explains the criteria for passing the test and shall be given to the applicant before any required test, except a motorcycle skill test. The applicant shall be directed over one of the routes which have been preselected by the examiner to test driving skills and maneuvers.
604.30(3) **Test score.** The examiner shall use the standard departmental score sheet and shall enter the test score and the licensing decision in the spaces provided. At the end of the test, the examiner shall explain the test score. The test score result is valid for 90 days.

604.30(4) **Retesting.** If an applicant fails a driving test, the test may be rescheduled at the discretion of the examiner.

This rule is intended to implement Iowa Code sections 321.174 and 321.186.

**[ARC 9991B, IAB 2/8/12, effective 3/14/12]**

761—604.31(321) **Driving test requirements and waivers for noncommercial driver’s licenses.**

604.31(1) **Driving test requirements.** The driving test requirements for noncommercial driver’s licenses are as follows:

- **a. Instruction permits.** A driving test is not required to obtain an instruction permit.
- **b. Class C driver’s licenses.** For a Class C driver’s license other than an instruction permit or a motorized bicycle license, an operator’s driving test in a representative vehicle is required, except that an autocycle as defined in Iowa Code section 321.1 shall not be used for the driving test.
- **c. Class D driver’s licenses.** For a Class D driver’s license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule 605.4(3), is required.
- **d. Class M driver’s licenses and motorcycle endorsements.** The driving test for a Class M driver’s license or motorcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

1. **(1) The off-street motorcycle skill test is required.** The on-street motorcycle driving test is also required if the applicant does not have another driver’s license that permits unaccompanied driving. Neither motorcycle test is required for the purposes of operating an autocycle.

2. **(2) A motorcycle shall be used for these tests.** If a three-wheeled motorcycle is used, the driver’s license shall be restricted: “Not valid for 2-wheel vehicle.” An autocycle is not considered a motorcycle or a three-wheeled motorcycle for testing purposes.

- **e. Motorized bicycle licenses.** For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle shall be used for the test.

604.31(2) **Driving test waivers.** The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

- **a. The applicant is applying for the applicant’s first Iowa driver’s license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses.** The appropriate Iowa-approved courses are the following: driver education, other than driver education by a teaching parent under rule 761—634.11(321), for a Class C driver’s license other than motorized bicycle; driver education and motorcycle rider education for a Class M driver’s license or motorcycle endorsement; and motorized bicycle education for a motorized bicycle license. However, if an applicant is under the age of 18, a driving test is required if so requested by the applicant’s parent, guardian, or instructor.

- **b. The applicant is renewing a Class C, Class D or Class M Iowa driver’s license or endorsement within 14 months after the expiration date.**

- **c. The applicant has passed the same type of driving test for another Iowa driver’s license or endorsement that is still valid or has expired within the past 14 months.**

- **d. The applicant has a military extension and is renewing the applicant’s Iowa driver’s license within six months following separation from active duty.**

- **e. The applicant is applying for a Class C Iowa driver’s license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past year.**

- **f. The applicant is applying for a Class D Iowa driver’s license and has an equivalent out-of-state license that is valid or has expired within the past year.**

- **g. The applicant is applying for a Class M driver’s license or a motorcycle endorsement and has an equivalent out-of-state Class M driver’s license or motorcycle endorsement that is valid or has expired within the past year.**
h. The applicant has a valid, equivalent driver’s license issued by a foreign jurisdiction with which Iowa has a nonbinding reciprocity agreement.


[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 1612C, IAB 9/3/14, effective 10/8/14; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2985C, IAB 3/15/17, effective 4/19/17]

761—604.32(321) Driving tests requirements. Rescinded IAB 1/8/92, effective 2/12/92.

761—604.33 and 604.34 Reserved.

761—604.35(321) Determination of gross vehicle weight rating. For a vehicle that has no legible manufacturer’s certification label, the applicant may provide documentation of the gross vehicle weight rating, such as a manufacturer’s certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating.

This rule is intended to implement Iowa Code section 321.1.

761—604.36 to 604.39 Reserved.

761—604.40(321) Failure to pass examination.

604.40(1) An applicant who fails to pass a required examination or reexamination shall not be licensed.

a. If the applicant does not have a valid Iowa license, the department shall deny the applicant a license.

b. If the applicant has a valid Iowa license, the department shall suspend the license for incapability. However, if the applicant’s license is valid for less than 30 days, the department shall deny further licensing. The department shall serve a notice of suspension or denial.

c. See 761—615.4(321) for further information on denials and 761—615.14(321) for further information on suspensions for incapability.

d. An applicant may contest a denial or suspension in accordance with 761—615.38(321).

604.40(2) Limitations on the hearing and appeal process.

a. After a suspension or denial for failure to pass a required knowledge or driving test, a person who contests the suspension or denial shall be deemed to have exhausted the person’s administrative remedies after three unsuccessful attempts to pass the required test.

b. After the three unsuccessful attempts, no further testing shall be allowed until six months have elapsed from the date of the last test failure, and then only if the applicant demonstrates a significant change or improvement in those physical or mental factors that resulted in the original decision. A request for further testing must be submitted in writing to the office of driver services at the address in rule 761—600.2(17A).

c. Notwithstanding paragraphs “a” and “b” of this subrule, no testing shall occur if the director determines that it is unsafe to allow testing.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177, 321.180A and 321.210.

761—604.41 to 604.44 Reserved.

761—604.45(321) Reinstatement. A person whose license has been suspended or denied for failure to pass a required examination or reexamination shall meet the vision standards for licensing, pass the required knowledge examination(s), and pass the required driving test(s) before an Iowa license will be issued.

This rule is intended to implement Iowa Code sections 321.177 and 321.186.

761—604.46 to 604.49 Reserved.
761—604.50(321) Special reexaminations. The department may require a special reexamination consisting of a vision screening, knowledge test and driving test of any licensee.

604.50(1) The department may require a special reexamination when a licensee has been involved in a fatal motor vehicle accident and the investigating officer’s report of the accident indicates the licensee contributed to the accident.

604.50(2) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officer’s report of each accident lists one of the following “Driver/Vehicle Related Contributing Circumstances” for the licensee:

a. Ran traffic signal.
b. Ran stop sign.
c. Passing, interfered with other vehicle.
d. Left of center, not passing.
e. Failure to yield right-of-way at uncontrolled intersection.
f. Failure to yield right-of-way from stop sign.
g. Failure to yield right-of-way from yield sign.
h. Failure to yield right-of-way making left turn.
i. Failure to yield right-of-way to pedestrian.
j. Failure to have control.

604.50(3) The department may require a special reexamination when a licensee has been involved in two accidents within a three-year period and the investigating officers’ reports for both accidents list a driver condition for the licensee of “apparently asleep.”

604.50(4) The department may require a special reexamination when a licensee who is 65 years of age or older has been involved in an accident and information in the investigating officer’s or the person’s own report of the accident indicates the need for reexamination. A circumstance that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. The licensee made a left turn that resulted in the accident.
b. The licensee failed to yield the right-of-way at a stop sign.
c. The licensee failed to yield the right-of-way at a yield sign.
d. The licensee failed to yield the right-of-way at an uncontrolled intersection.
e. The licensee failed to yield the right-of-way at a traffic control signal.
f. The licensee’s vision may be a contributing factor to a nighttime accident.
g. The licensee has a physical disability-related license restriction other than “corrective lenses” and the accident involved one of the circumstances listed in paragraphs “a” to “f” above.

604.50(5) The department may require a special reexamination when recommended by a peace officer, a court, or a properly documented citizen’s request. A factor that may indicate a need for reexamination includes, but is not limited to, any one of the following:

a. Loss of consciousness.
b. Confusion, disorientation or dementia.
c. Inability to maintain a vehicle in the proper lane.
d. Repeatedly ignoring traffic control devices in a nonchase setting.
e. Inability to interact safely with other vehicles.
f. Inability to maintain consistent speed when no reaction to other vehicles or pedestrians is required.

This rule is intended to implement Iowa Code sections 321.177, 321.186 and 321.210.

[Filed 7/1/75]
[Filed 12/28/76, Notice 11/3/76—published 1/12/77, effective 2/16/77]
[Filed 8/25/80, Notice 7/9/80—published 9/17/80, effective 10/22/80]
[Filed 1/20/88, Notice 12/2/87—published 2/10/88, effective 3/16/88]
[Filed emergency 11/30/89—published 12/27/89, effective 12/1/89]
[Filed emergency 6/7/90—published 6/27/90, effective 7/1/90]
[Filed 12/18/91, Notice 11/13/91—published 1/8/92, effective 2/12/92]
Effective date of 604.11(2) and 604.13(2) “b” delayed until adjournment of the 1988 Session of the General Assembly pursuant to Iowa Code section 17A.8(9) by the Administrative Rules Review Committee at its June 1987 meeting.
CHAPTER 607
COMMERCIAL DRIVER LICENSING

761—607.1(321) Scope. This chapter applies to licensing persons for the operation of commercial motor vehicles. Unless otherwise stated, the provisions of this chapter are in addition to other motor vehicle licensing rules.

This rule is intended to implement Iowa Code chapter 321.

761—607.2(17A) Information.

607.2(1) Information and location. Applications, forms and information about the commercial driver’s license (CDL) are available at any driver’s license examination station. Assistance is also available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121 or (515)244-8725; by facsimile at (515)239-1837; or on the department’s Web site at www.iowadot.gov.

607.2(2) Manual. A copy of a study manual for the commercial driver’s license tests is available upon request at any driver’s license examination station and on the department’s Web site.

This rule is intended to implement Iowa Code section 17A.3.

[ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.3(321) Definitions. The definitions in Iowa Code section 321.1 apply to this chapter of rules. In addition, the following definitions are adopted:

“Air brake system” means a system that uses air as a medium for transmitting pressure or force from the driver’s control to the service brake. “Air brake system” shall include any braking system operating fully or partially on the air brake principle.

“Air over hydraulic brakes” means any braking system operating partially on the air brake and partially on the hydraulic brake principle.

“Automatic transmission” means any transmission other than a manual transmission.

“CDLIS” means “commercial driver’s license information system” as defined in Iowa Code section 321.1.

“Commercial driver’s license downgrade” or “CDL downgrade” means either:
1. The driver changes the driver’s self-certification of type of driving from non-excepted interstate to excepted interstate, non-excepted intrastate, or excepted intrastate driving, or
2. The department removed the CDL privilege from the driver’s license.

“Commercial motor vehicle” or “CMV” as defined in Iowa Code section 321.1 does not include a motor vehicle designed as off-road equipment rather than as a motor truck, such as a forklift, motor grader, scraper, tractor, trencher or similar industrial-type equipment. “Commercial motor vehicle” also does not include self-propelled implements of husbandry described in Iowa Code subsection 321.1(32).

“Controlled substance” as used in Iowa Code section 321.208 means a substance defined in Iowa Code section 124.101.

“Hazardous materials” means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded under 49 CFR Part 172, Subpart F, or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.

“Manual transmission” means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated either by hand or by foot. All other transmissions, whether semi-automatic or automatic, will be considered automatic.

“Medical examiner” means a person who is licensed, certified or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced registered nurse practitioners, and doctors of chiropractic.

“Medical examiner’s certificate” means a certificate completed and signed by a medical examiner under the provisions of 49 CFR Section 391.43.
“Medical variance” means a driver has received one of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

1. An exemption letter permitting operation of a commercial motor vehicle pursuant to 49 CFR Part 381, Subpart C, or 49 CFR Section 391.62, or 49 CFR Section 391.64.
2. A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 CFR Section 391.49.

“Passenger vehicle” means either of the following:

1. A motor vehicle designed to transport 16 or more persons including the operator.
2. A motor vehicle of a size and design to transport 16 or more persons including the operator which is redesigned or modified to transport fewer than 16 persons with disabilities. The size of a redesigned or modified vehicle shall be any such vehicle with a gross vehicle weight rating of 10,001 or more pounds.

“School bus” means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. “School bus” does not include a bus used as a common carrier.

“Self-certification” means a written certification of which category of type of driving an applicant for a commercial driver’s license engages in or intends to engage in, from the following categories:

1. Non-excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR Part 391, and is required to obtain a medical examiner’s certificate by 49 CFR Section 391.45.
2. Excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR Section 390.3(f), 391.2, 391.68 or 398.3 from all or parts of the qualification requirements of 49 CFR Part 391, and is therefore not required to obtain a medical examiner’s certificate by 49 CFR Section 391.45.
3. Non-excepted intrastate. The person certifies that the person operates only in intrastate commerce and is subject to state driver qualification requirements.
4. Excepted intrastate. The person certifies that the person operates only in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements as set forth in Iowa Code section 321.449.

“State,” as used in this chapter and in “another state” in Iowa Code subsection 321.174(2), “former state of residence” in Iowa Code subsection 321.188(5), or “any state” in Iowa Code subsection 321.208(1), means one of the United States or the District of Columbia unless the context means the state of Iowa.

This rule is intended to implement Iowa Code sections 321.1, 321.174, 321.188, 321.191, 321.193, 321.207 and 321.208.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 9954B, IAB 1/11/12, effective 1/30/12; ARC 0031C, IAB 3/7/12, effective 4/11/12; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.4 and 607.5 Reserved.

761—607.6(321) Exemptions.

607.6(1) Persons exempt. A person listed in Iowa Code section 321.176A is exempt from commercial driver licensing requirements.

607.6(2) Exempt until April 1, 1992. Rescinded IAB 6/23/93, effective 7/28/93.

This rule is intended to implement Iowa Code sections 321.1 and 321.176A.

761—607.7(321) Records. The operating record of a person who has been issued a commercial driver’s license or a commercial learner’s permit or a person who has been disqualified from operating a commercial motor vehicle shall be maintained as provided in the department’s “Record Management Manual” adopted in 761—Chapter 4.

This rule is intended to implement Iowa Code sections 22.11, 321.12 and 321.199.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]
761—607.8 and 607.9  Reserved.

761—607.10(321) Adoption of federal regulations.

607.10(1) Code of Federal Regulations. The department’s administration of commercial driver’s licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations which are referenced throughout this chapter of rules:

a. 49 CFR Section 391.11 as adopted in 761—Chapter 520.

b. 49 CFR Section 392.5 as adopted in 761—Chapter 520.

c. The following portions of 49 CFR Part 383 (October 1, 2016):

(1) Section 383.51, Disqualification of drivers.

(2) Subpart E—Testing and Licensing Procedures.

(3) Subpart G—Required Knowledge and Skills.

(4) Subpart H—Tests.

607.10(2) Copies of regulations. Copies of the federal regulations may be reviewed at the state law library or through the Internet at http://www.fmcsa.dot.gov.

This rule is intended to implement Iowa Code sections 321.187, 321.188, 321.207, 321.208 and 321.208A.

[ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 9954B, IAB 1/11/12, effective 1/30/12; ARC 0031C, IAB 3/7/12, effective 4/11/12; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16; ARC 2986C, IAB 3/15/17, effective 4/19/17]

761—607.11 to 607.14  Reserved.

761—607.15(321) Application. An applicant for a commercial driver’s license shall comply with the requirements of Iowa Code sections 321.180(2)“e,” 321.182 and 321.188, and 761—Chapter 601, and must provide the proofs of citizenship or lawful permanent residence and state of domicile required by 49 CFR Section 383.71. If the applicant is domiciled in a foreign jurisdiction and applying for a nondomiciled commercial driver’s license, the applicant must provide a document required by 49 CFR Section 383.71(f).

This rule is intended to implement Iowa Code sections 321.180, 321.182 and 321.188.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.16(321) Commercial driver’s license (CDL).

607.16(1) Classes. The department may issue a commercial driver’s license only as a Class A, B or C driver’s license. The license class identifies the types of vehicles that may be operated. A commercial driver’s license may have endorsements which authorize additional vehicle operations or restrictions which limit vehicle operations.

607.16(2) Validity.

a. A Class A commercial driver’s license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code paragraph 321.189(1)“a.” With the required endorsements and subject to the applicable restrictions, a Class A commercial driver’s license is valid to operate any vehicle.

b. A Class B commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)“b.” With the required endorsements and subject to the applicable restrictions, a Class B commercial driver’s license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A commercial driver’s license.

c. A Class C commercial driver’s license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)“c.” With the required endorsements and subject to the applicable restrictions, a Class C commercial driver’s license is valid to operate any vehicle except a truck-tractor semitrailer combination as a chauffeur (Class D) or a vehicle requiring a Class A or Class B commercial driver’s license.
d. A commercial driver’s license is valid for operating a motorcycle as a commercial motor vehicle only if the license has a motorcycle endorsement and a hazardous material endorsement. A commercial driver’s license is valid for operating a motorcycle as a noncommercial motor vehicle only if the license has a motorcycle endorsement.

e. A commercial driver’s license valid for eight years shall be issued to a qualified applicant who is at least 18 years of age but not yet 72 years of age. However, the expiration date of the license issued shall not exceed the licensee’s 74th birthday.

f. A commercial driver’s license valid for two years shall be issued to a qualified applicant 72 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

g. A commercial driver’s license is valid for 60 days after the expiration date.

h. A person with a commercial driver’s license valid for the vehicle operated is not required to obtain a Class D driver’s license to operate the vehicle as a chauffeur.

607.16(3) Requirements.

a. The minimum age to obtain a commercial driver’s license is 18 years.

b. The applicant shall meet the requirements set forth in rule 761—607.15(321).

607.16(4) Transition from five-year to eight-year licenses. During the period January 1, 2014, to December 31, 2018, the department shall issue qualified applicants otherwise eligible for an eight-year license a five-year, six-year, seven-year, or eight-year license, subject to all applicable limitations for age and ability. The applicable period shall be randomly assigned to the applicant by the department’s computerized issuance system based on a distribution formula intended to spread renewal volumes as equally as practical over the eight-year period beginning January 1, 2019, and ending December 31, 2026.

This rule is intended to implement Iowa Code sections 321.177, 321.182, 321.188, 321.189, and 321.196 and 2013 Iowa Acts, chapter 104, section 2.

607—607.17(321) Endorsements. All endorsements except the hazardous material endorsement continue to be valid without retesting or additional fees when renewing or upgrading a license. The endorsements that authorize additional commercial motor vehicle operations with a commercial driver’s license are:

607.17(1) Hazardous material. A hazardous material endorsement (H) is required to transport hazardous materials. Upon license renewal, retesting and fee payment are required. Retesting and fee payment are also required when an applicant upgrades an Iowa license or transfers a commercial driver’s license from another state unless the applicant provides evidence of passing the endorsement test within the preceding 24 months. A farmer or a person working for a farmer is not subject to the hazardous material endorsement while operating either a pickup or a special truck within 150 air miles of the farmer’s farm to transport supplies to or from the farm.

607.17(2) Passenger vehicle. A passenger vehicle endorsement (P) is required to operate a passenger vehicle as defined in rule 761—607.3(321).

607.17(3) Tank vehicle. A tank vehicle endorsement (N) is required to operate a tank vehicle as defined in Iowa Code section 321.1. A vehicle transporting a tank, regardless of the tank’s capacity, which does not otherwise meet the definition of a commercial motor vehicle in Iowa Code section 321.1 is not a tank vehicle.

607.17(4) Double/triple trailer. A double/triple trailer endorsement (T) is required to operate a commercial motor vehicle with two or more towed trailers when the combination of vehicles meets the criteria for a Class A commercial motor vehicle. Operation of a triple trailer combination vehicle is not permitted in Iowa.

607.17(5) Hazardous material and tank. A combined endorsement (X) authorizes both hazardous material and tank vehicle operations.
607.17(6) School bus. After September 30, 2005, a school bus endorsement (S) is required to operate a school bus as defined in rule 761—607.3(321). An applicant for a school bus endorsement must also qualify for a passenger vehicle endorsement.

607.17(7) Exceptions for towing operations.

a. A driver who tows a vehicle in an emergency “first move” from the site of a vehicle malfunction or accident on a highway to the nearest appropriate repair facility is not required to have the endorsement(s) applicable to the towed vehicle. In any subsequent move, a driver who tows a vehicle from one repair or disposal facility to another is required to have the endorsement(s) applicable to the towed vehicle with one exception: A tow truck driver is not required to have a passenger endorsement to tow a passenger vehicle.

b. The double/triple trailer endorsement is not required to operate a commercial motor vehicle with two or more towed vehicles that are not trailers.

This rule is intended to implement Iowa Code sections 321.1, 321.176A and 321.189.

[IAC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.18(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver’s license are listed in 761—subrule 605.5(3) and are explained below:

607.18(1) Air brake. The air brake restriction (L, no air brake equipped CMV) applies to a licensee who either fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes and prohibits the operation of a commercial motor vehicle equipped with an air brake system until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.18(2) Full air brake. The full air brake restriction (Z, no full air brake equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with air over hydraulic brakes and prohibits the operation of a commercial motor vehicle equipped with any braking system operating fully on the air brake principle until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.18(3) Manual transmission. The manual transmission restriction (E, no manual transmission equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with automatic transmission and prohibits the operation of a commercial motor vehicle equipped with a manual transmission until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.18(4) Tractor-trailer. The tractor-trailer restriction (O, no tractor trailer CMV) applies to a licensee who performs the skills test in a combination vehicle for a Class A commercial driver’s license with the power unit and towed unit connected with a pintle hook or other non-fifth wheel connection and prohibits operation of a tractor-trailer combination connected by a fifth wheel that requires a Class A commercial driver’s license until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

607.18(5) Class A passenger vehicle. The Class A passenger vehicle restriction (M, no Class A passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class B commercial driver’s license and prohibits operation of a passenger vehicle that requires a Class A commercial driver’s license.

607.18(6) Class A and B passenger vehicle. The Class A and B passenger vehicle restriction (N, no Class A and B passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class C commercial driver’s license and prohibits operation of a passenger vehicle that requires a Class A or Class B commercial driver’s license.

607.18(7) Intrastate only. The intrastate only restriction (K, intrastate only) applies to a licensee who self-certifies to non-excepted intrastate or excepted intrastate driving and prohibits the operation of a commercial motor vehicle in interstate commerce.

607.18(8) Medical variance. The medical variance restriction (V, medical variance) applies to a licensee when the department is notified pursuant to 49 CFR Section 383.73(o)(3) that the driver has
been issued a medical variance and indicates there is information about a medical variance on the CDLIS
driver record.
This rule is intended to implement Iowa Code sections 321.189 and 321.191.

761—607.19  Reserved.

761—607.20(321) Commercial learner’s permit.

607.20(1)  Validity.

   a. A commercial learner’s permit allows the permit holder to operate a commercial motor vehicle
      when accompanied as required by Iowa Code section 321.180(2) “d.”
   b. A commercial learner’s permit is valid for 180 days and may be renewed for an additional
      180 days without retaking the general and endorsement knowledge tests required by Iowa Code section
      321.188.
   c. A commercial learner’s permit is invalid after the expiration date of the underlying commercial
      or noncommercial driver’s license issued to the permit holder or the expiration date of the permit
      whichever occurs first.
   d. The issuance of a commercial learner’s permit is a precondition to the initial issuance of a
      commercial driver’s license. The issuance of a commercial learner’s permit is also a precondition to the
      upgrade of a commercial driver’s license if the upgrade requires a skills test. The holder of a commercial
      learner’s permit is not eligible to take a required driving skills test for the first 14 days after the permit
      holder is issued the permit. The 14-day period includes the day the commercial learner’s permit was
      issued.

   EXAMPLE: The commercial learner’s permit is issued on September 1. The earliest date the permit
   holder would be eligible to take the skills test is September 15.
   e. A commercial learner’s permit is not valid for the operation of a vehicle transporting hazardous
      materials.

607.20(2)  Requirements.

   a. An applicant for a commercial learner’s permit must hold a valid Class A, B, C, or D driver’s
      license issued in this state that is not an instruction permit, a special instruction permit, a motorized
      bicycle license or a temporary restricted license; must be at least 18 years of age; and must meet the
      requirements to obtain a valid commercial driver’s license, including the requirements set forth in Iowa
      Code section 321.188. However, the applicant does not have to complete the driving skills tests required
      for a commercial driver’s license to obtain a commercial learner’s permit.
   b. The applicant must successfully pass a general knowledge test that meets the federal standards
      contained in 49 CFR Part 383, Subparts F, G and H, for the commercial motor vehicle the applicant
      operates or expects to operate, including any endorsement for which the applicant applies.

607.20(3)  Endorsements. A commercial learner’s permit may include the following endorsements.
All other endorsements are prohibited on a commercial learner’s permit.

   a. An applicant for a passenger endorsement (P) must take and pass the passenger endorsement
      knowledge test. A commercial learner’s permit holder with a passenger endorsement is prohibited
      from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and
      inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying
      the permit holder required by Iowa Code section 321.180(2) “d.”
   b. An applicant for a school bus endorsement (S) must take and pass the school bus endorsement
      knowledge test. A commercial learner’s permit holder with a school bus endorsement is prohibited
      from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and
      inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying
      the permit holder required by Iowa Code section 321.180(2) “d.”
   c. An applicant for a tank vehicle endorsement (N) must take and pass the tank vehicle
      endorsement knowledge test. A commercial learner’s permit holder with a tank vehicle endorsement
may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

607.20(4) Restrictions. A commercial learner’s permit may include the air brake (L), medical variance (V), Class A passenger vehicle (M), Class A and B passenger vehicle (N) and intrastate only (K) restrictions described in rule 761—607.18(321). In addition, a commercial learner’s permit may include the following restrictions that are specific to the commercial learner’s permit:

a. Passenger. The passenger restriction (P, no passengers in CMV bus) applies to a permit holder who has a commercial learner’s permit with a passenger or school bus endorsement and prohibits the operation of a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the permit holder required by Iowa Code section 321.180(2) “d.”

b. Cargo. The cargo restriction (X, no cargo in CMV tank vehicle) applies to a permit holder who has a commercial learner’s permit with a tank vehicle endorsement and prohibits the operation of any tank vehicle containing cargo or any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

This rule is intended to implement Iowa Code sections 321.180, 321.186 and 321.188.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.24 Reserved.

761—607.25(321) Examination for a commercial driver’s license. In addition to the requirements of 761—Chapter 604, an applicant for a commercial driver’s license shall pass the knowledge and skills tests as required in 49 CFR Part 383, Subparts G and H.

This rule is intended to implement Iowa Code section 321.186.

761—607.26(321) Vision screening. An applicant for a commercial driver’s license or commercial learner’s permit must pass a vision screening test administered by the department. The vision standards are given in 761—604.11(321).

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16]

761—607.27(321) Knowledge tests.

607.27(1) General knowledge test. The general knowledge test for a commercial driver’s license is a written test of topics such as vehicle inspection, operation, safety and control in accordance with 49 CFR Section 383.111.

607.27(2) Additional tests. In addition to the general knowledge test for a commercial driver’s license, an additional knowledge test is required for each of the following:

a. Class A license for combination vehicle operation as required in 49 CFR Section 383.111.

b. Hazardous material endorsement as required in 49 CFR Section 383.121. The knowledge test for a hazardous material endorsement shall not be administered orally or in a language other than English.

c. Passenger vehicle endorsement as required in 49 CFR Section 383.117.

d. Tank vehicle endorsement as required in 49 CFR Section 383.119.

e. Double/triple trailer endorsement as required in 49 CFR Section 383.115.

f. School bus endorsement as required in 49 CFR Section 383.123. The applicant must also qualify for a passenger vehicle endorsement.

g. Removal of the air brake restriction as required in 49 CFR Section 383.111.

607.27(3) Test methods. All knowledge tests shall be administered in compliance with 49 CFR Section 383.133(b). All tests other than the hazardous material endorsement test may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test. A verbal test shall be offered only at specified locations. Information about the locations is available at any driver’s license examination station.
607.27(4) Waiver. A waiver of any knowledge test is permitted only as provided in Iowa Code subsection 321.188(5). The burden of proof of having passed the hazardous material endorsement test within the preceding 24 months rests with the applicant.

607.27(5) Requirement. An applicant must pass the applicable knowledge test(s) before taking the skills test. Passing scores for a knowledge test shall meet the standards contained in 49 CFR Section 383.135(a).

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.28(321) Skills test.

607.28(1) Content. The skills test for a commercial driver’s license is a three-part test as required in 49 CFR Part 383, Subparts E, G and H.

607.28(2) Test methods. All skills tests shall be administered in compliance with 49 CFR Section 383.133(c). Interpreters are prohibited during the administration of skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

607.28(3) Order: The skills test must be administered and successfully completed in the following order: pre-trip inspection, basic vehicle control skills, on-road skills. If an applicant fails one segment of the skills test, the applicant cannot continue to the next segment of the test, and scores for the passed segments of the test are only valid during initial issuance of the commercial learner’s permit. If the commercial learner’s permit is renewed, all three segments of the skills test must be retaken. However:

a. If the applicant wants to remove an air brake restriction, full air brake restriction, or manual transmission restriction, the applicant does not have to retake the complete skills test, and may complete a modified skills test that demonstrates the applicant can safely and effectively operate the vehicle’s full air brakes, air over hydraulic brakes, or manual transmission. In addition, to remove the air brake or full air brake restriction, the applicant must successfully perform the air brake pre-trip inspection and pass the air brake knowledge test.

b. If the applicant wants to remove the tractor-trailer restriction, the applicant must retake all three skills tests in a representative tractor-trailer.

607.28(4) Vehicle. The applicant shall provide a representative vehicle for the skills test. “Representative vehicle” means a commercial motor vehicle that meets the statutory description for the class of license applied for.

a. To obtain a passenger vehicle endorsement applicable to a specific vehicle class, the applicant must take the skills test in a passenger vehicle, as defined in rule 761—607.3(321), satisfying the requirements of that class, as required in 49 CFR Section 383.117.

b. To obtain a school bus endorsement, the applicant must qualify for a passenger vehicle endorsement and take the skills test in a school bus, as defined in rule 761—607.3(321), in the same vehicle class as the applicant will drive, as required in 49 CFR Section 383.123. Up to and including September 30, 2005, the skills test for a school bus endorsement is waived for an applicant meeting the requirements of 49 CFR Section 383.123(b).

c. To remove an air brake or full air brake restriction, the applicant must take the skills test in a vehicle equipped with an air brake system, as defined in rule 761—607.3(321) and as required in 49 CFR Section 383.113.

d. To remove a manual transmission restriction, the applicant must take the skills test in a vehicle equipped with a manual transmission, as defined in rule 761—607.3(321).

607.28(5) Skills test scoring. Passing scores for a skills test shall meet the standards contained in 49 CFR Section 383.135(b).

607.28(6) Military waiver. The department may waive the requirement that an applicant pass a required skills test for an applicant who is on active duty in the military service or who has separated from such service in the past year, provided the applicant meets the requirements of Iowa Code subsection 321.188(6).
607.28(7) Locations. The skills test for a commercial driver’s license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver’s license examination station for the location of the nearest skills testing station. A skills test by appointment shall be offered only at specified regional test sites.

This rule is intended to implement Iowa Code sections 321.186 and 321.188.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]


761—607.30(321) Third-party testing.

607.30(1) Purpose and definitions. The skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party skills test examiners approved and certified by the department. For the purpose of administering third-party skills testing and this rule, the following definitions shall apply:

“Community college” means an Iowa community college established under Iowa Code chapter 260C.

“Iowa-based motor carrier” means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.

“Motor carrier” means the same as defined in 49 CFR Section 390.5.

“Permanent commercial driver training facility” means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier’s commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pretrip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

“Skills test” means the skills test required by rule 761—607.28(321).

“Subsidiary” means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

“Third-party skills test examiner” means the same as defined in 49 CFR Section 383.5.

“Third-party tester” means the same as defined in 49 CFR Section 383.5.

607.30(2) Certification of third-party testers.

a. The department may certify as a third-party tester a community college or Iowa-based motor carrier to administer skills tests. A community college or Iowa-based motor carrier that seeks certification as a third-party tester shall contact the department’s office of driver services and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party skills test examiners, and any other information necessary to demonstrate compliance with 49 CFR Section 383.75.

b. No community college or Iowa-based motor carrier shall be certified to conduct third-party testing unless and until the community college or Iowa-based motor carrier enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct skills tests in a manner that consistently meets the requirements of 49 CFR Section 383.75.

c. The department shall issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which skills tests may be administered. The certificate shall be valid for the duration of the agreement executed pursuant to paragraph 607.30(2) “b,” unless revoked by the department for engaging in fraudulent activities related to conducting skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR Section 383.75.

607.30(3) Certification of third-party skills test examiners.
a. A certified third-party tester shall not employ or otherwise use as a third-party skills test examiner a person who has not been approved and certified by the department to administer skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party skills test examiners on a form provided by the department. The department shall not approve as a third-party skills test examiner a person who does not meet the requirements, qualifications and standards of 49 CFR Sections 383.75 and 384.228, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. The department shall issue a certificate of authority for each person certified as a third-party skills test examiner that identifies the certified third-party tester for which the person will administer skills tests and the classes and types of vehicles for which the person may administer skills tests. The certificate shall be valid for a period of four years from the date of issuance of the certificate.

c. The department shall revoke the certificate if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Sections 383.75 and 384.228.

d. A third-party skills test examiner who is also a skills instructor shall not administer a skills test to an applicant who received skills training from that third-party skills test examiner.

607.30(4) Bond. As a condition of certification, an Iowa-based motor carrier must maintain a bond in the amount of $50,000 to pay for the retesting of drivers in the event that the third-party tester or one or more of its third-party skills test examiners are involved in fraudulent activities related to conducting skills tests of applicants for a commercial driver’s license.

607.30(5) Limitation applicable to Iowa-based motor carriers. An Iowa-based motor carrier certified as a third-party tester may only administer the skills test to persons who are enrolled in the Iowa-based motor carrier’s commercial driving instruction program and shall not administer skills tests to persons who are not enrolled in that program.

607.30(6) Training and refresher training for third-party skills test examiners. All training and refresher training required under this rule shall be provided by the department, in form and content that meet the recommendations of the American Association of Motor Vehicle Administrators’ International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187.

[ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.31(321) Test results.

607.31(1) Period of validity. Passing knowledge and skills test results shall remain valid for a period of 180 days.

607.31(2) Retesting. Subject to rule 761—607.28(321), an applicant shall be required to repeat only the knowledge test(s) or part(s) of the skills test that the applicant failed. An applicant who fails a test shall not be permitted to repeat that test the same day.

607.31(3) Skills test results from other states. As required by 49 CFR Section 383.79, the department shall accept the valid results of a skills test administered to an applicant who is domiciled in the state of Iowa and that was administered by another state, in accordance with 49 CFR Part 383, Subparts F, G and H, in fulfillment of the applicant’s testing requirements under 49 CFR Section 383.71 and the state’s test administration requirements under 49 CFR Section 383.73. The results must be transmitted directly from the testing state to the department as required by 49 CFR Section 383.79.

607.31(4) Skills test results from certified third-party testers. A third-party skills tester certified under rule 761—607.30(321) shall transmit the skills test results of tests administered by the third-party tester through secure electronic means determined by the department. The department may retest any person who has passed a skills test administered by a certified third-party tester if it appears to the department that the skills test administered by the third-party tester was administered fraudulently or
improperly, and as needed to meet the third-party skills test examiner oversight requirements of 49 CFR Section 383.75(a)(5).

This rule is intended to implement Iowa Code sections 321.186, 321.187 and 321.188.

761—607.32 to 607.34 Reserved.

761—607.35(321) Issuance of commercial driver’s license and commercial learner’s permit. A commercial driver’s license or commercial learner’s permit issued by the department shall include the information and markings required by Iowa Code section 321.189(2) “b.”

This rule is intended to implement Iowa Code section 321.189.


761—607.37(321) Commercial driver’s license renewal. The department shall administer commercial driver’s license renewals as required by 49 CFR Section 383.73.

607.37(1) Licensee requirements. To renew a commercial driver’s license, the licensee shall apply at a driver’s license examination station and complete the following requirements:

a. The licensee shall make a written self-certification of type of driving as required by rule 761—607.50(321) and provide a current medical examiner’s certificate if required.

b. If the licensee has and wishes to retain a hazardous material endorsement, the licensee shall pass the test required in 49 CFR Section 383.121 and comply with the Transportation Security Administration security threat assessment standards specified in 49 CFR Sections 383.71(b)(8) and 383.141 for such endorsement. A lawful permanent resident of the United States must also provide the licensee’s U.S. Citizenship and Immigration Services alien registration number.

c. The licensee shall provide proof of citizenship or lawful permanent residency and state of domicile as required by rule 761—607.15(321) and 49 CFR 383.73(d)(7). Proof of citizenship or lawful permanent residency is not required if the licensee provided such proof at initial issuance or a previous renewal or upgrade of the license and the department has a notation on the licensee’s record confirming that the required proof of legal citizenship or legal presence check was made and the date on which it was made.

d. If the licensee is domiciled in a foreign jurisdiction and renewing a non-domiciled commercial driver’s license, the licensee must provide a document required by 49 CFR 383.71(f) at each renewal.

607.37(2) Early renewal. A valid commercial driver’s license may be renewed 90 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed 364 days prior to the expiration date. The department may allow renewal earlier than 364 days prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.

This rule is intended to implement Iowa Code sections 321.186, 321.188 and 321.196.

761—607.38(321) Transfers from another state. Upon initial application for an Iowa license, an Iowa resident who has a valid commercial driver’s license from a former state of residence is not required to retest except as specified in Iowa Code subsection 321.188(5) but is required to pay the applicable endorsement and restriction removal fees.

This rule is intended to implement Iowa Code sections 321.188 and 321.191.

761—607.39(321) Disqualification.

607.39(1) Date. A disqualifying act, action or offense under Iowa Code section 321.208, that occurred before July 1, 1990, shall not be grounds for disqualification from operating a commercial motor vehicle.
607.39(2) Notice. A 30-day advance notice of disqualification shall be served by the department in accordance with rule 761—615.37(321). Pursuant to Iowa Code subsection 321.208(12), a peace officer on behalf of the department may serve the notice of disqualification immediately.

607.39(3) Hearing and appeal process. A person who has received a notice of disqualification may contest the disqualification in accordance with 761—615.38(17A,321).

607.39(4) Reduction of lifetime disqualification. Reserved.

This rule is intended to implement Iowa Code chapter 17A and section 321.208.

[ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.40(321) Sanctions. When a person’s motor vehicle license is denied, canceled, suspended, revoked or barred, the person is also disqualified from operating a commercial motor vehicle.

This rule is intended to implement Iowa Code section 321.208.

761—607.41 to 607.44 Reserved.

761—607.45(321) Reinstatement. To reinstate a commercial driver’s license after completion of a period of disqualification, a person shall appear at a driver’s license examination station. The person must also meet the vision standards for licensing, pass the applicable knowledge test(s) and the skills test, and pay the required reinstatement fee and the fees for a new license.

This rule is intended to implement Iowa Code sections 321.191 and 321.208.

761—607.46 to 607.48 Reserved.

761—607.49(321) Restricted commercial driver’s license.

607.49(1) Scope. This rule pertains to the issuance of restricted commercial driver’s licenses to suppliers or employees of suppliers of agricultural inputs. Issuance is permitted by 49 CFR 383.3(f). A restricted commercial driver’s license shall meet all requirements of a regular commercial driver’s license, as set out in Iowa Code chapter 321 and this chapter of rules, except as specified in this rule.

607.49(2) Agricultural inputs. The term “agricultural inputs” means suppliers or applicators of agricultural chemicals, fertilizer, seed or animal feeds.

607.49(3) Validity.

a. A restricted commercial driver’s license allows the licensee to drive a commercial motor vehicle for agricultural input purposes. The license is valid to:

(1) Operate Group B and Group C commercial motor vehicles including tank vehicles and vehicles equipped with air brakes, except passenger vehicles.

(2) Transport the hazardous materials listed in paragraph 607.49(3)“b.”

(3) Operate only during the current, validated seasonal period.

(4) Operate between the employer’s place of business and the farm currently being served, not to exceed 150 miles.

b. A restricted commercial driver’s license is not valid for transporting hazardous materials requiring placarding, except as follows:

(1) Liquid fertilizers such as anhydrous ammonia may be transported in vehicles or implements of husbandry with total capacities of 3,000 gallons or less.

(2) Solid fertilizers such as ammonium nitrate may be transported provided they are not mixed with any organic substance.

(3) A hazardous material endorsement is not needed to transport the products listed in the preceding subparagraphs.

c. When not driving for agricultural input purposes, the license is valid for operating a noncommercial motor vehicle that may be legally operated under the noncommercial license held by the licensee.

607.49(4) Requirements.
a. The applicant must have two years of previous driving experience. This means that the applicant must have held a license that permits unaccompanied driving for at least two years. This does not include a motorized bicycle license, a minor’s school license or a minor’s restricted license.

b. The applicant must have a good driving record for the most recent two-year period, as defined in subrule 607.49(5).

c. An applicant who currently holds a commercial driver’s license or a commercial learner’s permit is not eligible for issuance of a restricted commercial driver’s license.

607.49(5) Good driving record. A “good driving record” means a driving record showing:

a. No multiple licenses.

b. No driver’s license suspensions, revocations, disqualifications, denials, bars, or cancellations of any kind.

c. No convictions in any type of motor vehicle for:
   (1) Driving under the influence of alcohol or drugs.
   (2) Leaving the scene of an accident.
   (3) Committing any felony involving a motor vehicle.
   (4) Speeding 15 miles per hour or more over the posted speed limit.
   (5) Reckless driving, drag racing, or eluding or attempting to elude a law enforcement officer.
   (6) Improper or erratic lane changes.
   (7) Following too closely.
   (8) A moving violation that contributed to a motor vehicle accident.
   (9) A violation deemed serious under rule 761—615.17(321).

d. No record of contributive accidents, as defined in rule 761—615.1(321).

607.49(6) Issuance.

a. The knowledge and skills tests described in rules 761—607.27(321) and 761—607.28(321) are waived.

b. A restricted commercial driver’s license shall be coded with restriction “W” on the face of the driver’s license, with the restriction explained in text on the back of the driver’s license. In addition, the license shall be issued with a restriction stating the license’s period of validity.

c. The expiration date for a restricted commercial driver’s license that is converted to this license from another Iowa license shall carry the same expiration date as the previous license.

d. A restricted commercial driver’s license may be renewed for the period of time specified in Iowa Code section 321.196. The licensee’s good driving record shall be confirmed at the time of renewal.

e. The fee for a restricted commercial driver’s license shall be as specified in Iowa Code section 321.191.

f. On or before December 31, 2016, there are two periods of validity for commercial motor vehicle operation: March 15 through June 30, and October 4 through December 14. Validity shall not exceed 180 days in any 12-month period. Any period of validity authorized previously by another state’s license shall be considered a part of the 180-day maximum period of validity.

g. On or after January 1, 2017, a licensee may have up to three individual periods of validity for a restricted commercial driver’s license, provided the cumulative period of validity for all individual periods does not exceed 180 days in any calendar year. An individual period of validity may be 60, 90, or 180 consecutive days, at the election of the licensee. A licensee may add 30 days to an individual period of validity by applying for an extension, subject to the 180-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date shall be treated as a request for a new individual period of validity. An extension shall be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state’s license shall be considered a part of the 180-day cumulative maximum period of validity.

h. A restricted commercial driver’s license must be validated for commercial motor vehicle operation for each individual period of validity. This means that the applicant/licensee must have the person’s good driving record confirmed at each application for an individual period of validity. Upon
confirmation, the department shall issue a replacement license with a restriction validating the license for that individual period of validity, provided the person is otherwise eligible for the license. The fee for a replacement license shall be as specified in Iowa Code section 321.195.

i. The same process must be repeated for each individual period of validity within a calendar year.

This rule is intended to implement Iowa Code section 321.176B.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.50(321) Self-certification of type of driving and submission of medical examiner’s certificate.

607.50(1) Applicants for commercial learner’s permit or new, transferred, renewed or upgraded CDL.

a. A person shall provide to the department a self-certification of type of driving if the person is applying for:

(1) A commercial learner’s permit,
(2) An initial commercial driver’s license,
(3) A transfer of a commercial driver’s license from a prior state of domicile to the state of Iowa,
(4) Renewal of a commercial driver’s license, or
(5) A license upgrade for a commercial driver’s license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver’s license.

b. The self-certification shall be on a form or in a format, which may be electronic, as provided by the department.

607.50(2) Submission of medical examiner’s certificate by persons certifying to non-excepted interstate driving. Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person’s current medical examiner’s certificate. A person who fails to provide a required medical examiner’s certificate shall not be allowed to proceed with an initial issuance, transfer, renewal, or upgrade of a license until the person gives the department a medical examiner’s certificate that complies with the requirements of this subrule, or changes the person’s self-certification of type of driving to a type other than non-excepted interstate driving. For persons submitting a current medical examiner’s certificate, the department shall post a medical certification status of “certified” on the person’s CDLIS driver’s record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver’s record.

607.50(3) Maintaining certified status. To maintain a medical certification status of “certified,” a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner’s certificate valid for the person. The copy must be given to the department at least ten days before the previous medical examiner’s certificate expires.

607.50(4) CDL downgrade. If the medical examiner’s certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person’s medical variance was removed or rescinded, the department shall post a medical certification status of “not certified” to the person’s CDLIS driver’s record and shall initiate a downgrade of the person’s commercial driver’s license or commercial learner’s permit. The medical examiner’s certificate of a person who fails to maintain a medical certification status of “certified” as required by subrule 607.50(3) shall be deemed to be expired on the date of expiration of the last medical examiner’s certificate filed for the person as shown by the person’s CDLIS driver’s record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person’s medical certification status is “not certified” and that the commercial motor vehicle privileges will be removed from the person’s commercial driver’s license or commercial learner’s permit 60 days after the date the medical examiner’s certificate or medical variance expired or the medical variance was removed or rescinded unless the person submits to the department a current medical certificate or medical variance or self-certifies to a type of driving other than non-excepted interstate.

b. If the person submits a current medical examiner’s certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status of “certified” on the
person’s CDLIS driver’s record and shall terminate the downgrade of the person’s commercial driver’s license or commercial learner’s permit.

c. If the person self-certifies to a type of driving other than non-excepted interstate before the end of the 60-day period, the department shall not remove the commercial motor vehicle privileges from the person’s commercial driver’s license or commercial learner’s permit, and the person will have no medical certification status on the person’s CDLIS driver’s record.

d. If the person fails to take the action in either paragraph 607.50(4)“b” or “c” before the end of the 60-day period, the department shall remove the commercial motor vehicle privileges from the person’s commercial driver’s license or commercial learner’s permit and shall leave the person’s medical certification status as “not certified” on the person’s CDLIS driver’s record.

607.50(5) Establishment or reestablishment of “certified” status. A person who has no medical certification status or whose medical certification status has been posted as “not certified” on the person’s CDLIS driver’s record may establish or reestablish the status as “certified” by submitting a current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record.

607.50(6) Reestablishment of the CDL privilege. A person whose commercial motor vehicle privileges have been removed from the person’s commercial driver’s license or commercial learner’s permit under the provisions of paragraph 607.50(4)“d” may reestablish the commercial motor vehicle privileges by either of the following methods:

a. Submitting a current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record and reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit.

b. Self-certifying to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit; the person will have no medical certification status on the driver’s CDLIS driver’s record.

607.50(7) Change of type of driving. A person may change the person’s self-certification of type of driving at any time. As required by subrule 607.50(2), a person certifying to non-excepted interstate driving must give the department a copy of the person’s current medical examiner’s certificate prepared by a medical examiner.

607.50(8) Record keeping. The department shall comply with the medical record-keeping requirements set forth in 49 CFR Section 383.73.

This rule is intended to implement Iowa Code sections 321.182, 321.188 and 321.207.

[ARC 9954B, IAB 1/11/12, effective 1/30/12; ARC 0031C, IAB 3/7/12, effective 4/11/12; ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]

761—607.51(321) Determination of gross vehicle weight rating.

607.51(1) Actual weight prohibited. In determining whether the vehicle is a representative vehicle for the skills test and the group of commercial driver’s license for which the applicant is applying, the vehicle’s gross weight rating or gross combination weight rating must be used, not the vehicle’s actual gross weight or gross combination weight. For purposes of this rule, “gross weight rating” and “gross combination weight rating” mean as defined in 49 CFR Section 383.5.

607.51(2) Vehicle without legible manufacturer’s certification label. To complete a skills test using a vehicle that has no legible manufacturer’s certification label, whether a power unit or towed vehicle, the applicant must provide documentation of the vehicle’s gross vehicle weight rating, such as a manufacturer’s certificate of origin, a title, or the vehicle identification number information for
the vehicle. In the absence of such documentation, the vehicle may not be used, either alone or in combination.

This rule is intended to implement Iowa Code section 321.1.

[ARC 2071C, IAB 8/5/15, effective 7/14/15; ARC 2337C, IAB 1/6/16, effective 2/10/16; ARC 2530C, IAB 5/11/16, effective 6/15/16]
[Filed emergency 10/24/90—published 11/14/90, effective 10/24/90]
[Filed emergency 1/10/91—published 2/6/91, effective 1/10/91]
[Filed 5/9/91, Notices 11/14/90, 2/20/91—published 5/29/91, effective 7/3/91]
[Filed 1/11/95, Notice 11/23/94—published 2/1/95, effective 3/8/95]
[Filed 11/1/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]
[Filed 10/30/96, Notice 9/25/96—published 11/20/96, effective 12/25/96]
[Filed 6/19/02, Notice 4/17/02—published 7/10/02, effective 8/14/02]
[Filed emergency 3/21/03—published 4/16/03, effective 3/21/03]
[Filed emergency 6/15/05 after Notice 5/11/05—published 7/6/05, effective 7/1/05]
[Filed 10/11/06, Notice 8/30/06—published 11/8/06, effective 12/13/06]
[Filed 12/12/07, Notice 11/7/07—published 1/2/08, effective 2/6/08]
[Filed ARC 7902B (Notice ARC 7721B, IAB 4/22/09), IAB 7/1/09, effective 8/5/09]
[Filed Emergency ARC 9954B, IAB 1/11/12, effective 1/30/12]
[Filed ARC 0031C (Notice ARC 9955B, IAB 1/11/12), IAB 3/7/12, effective 4/11/12]
[Filed ARC 1714C (Notice ARC 1601C, IAB 9/3/14), IAB 11/12/14, effective 12/17/14]
[Filed Emergency ARC 2071C, IAB 8/5/15, effective 7/14/15]
[Filed ARC 2337C (Notice ARC 2070C, IAB 8/5/15), IAB 1/6/16, effective 2/10/16]
[Filed ARC 2530C (Notice ARC 2451C, IAB 3/16/16), IAB 5/11/16, effective 6/15/16]
[Filed ARC 2986C (Notice ARC 2878C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]