

State of Iowa

Iowa
Administrative
Code
Supplement

Biweekly
June 11, 2014



STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

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

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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

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

Administrative Services Department[11]

Replace Chapter 1
Replace Chapters 117 and 118

Economic Development Authority[261]

Replace Analysis
Remove Reserved Chapters 42 and 43
Insert Chapter 42 and Reserved Chapter 43

Education Department[281]

Replace Analysis
Replace Chapter 44
Replace Chapter 64
Replace Chapter 67
Replace Chapter 97

College Student Aid Commission[283]

Replace Chapters 2 and 3
Replace Chapter 27

Human Services Department[441]

Replace Chapter 7
Replace Chapters 40 and 41
Replace Chapter 75
Replace Chapter 79

Inspections and Appeals Department[481]

Replace Analysis
Replace Chapter 57

Environmental Protection Commission[567]

Replace Chapter 61

Public Health Department[641]

Replace Analysis
Replace Chapter 7
Replace Reserved Chapter 37 with Chapter 37
Replace Chapters 38 to 40

Remove Reserved Chapters 61 to 66

Insert Chapter 61 and Reserved Chapters 62 to 66

Replace Reserved Chapters 101 to 108 with Reserved Chapters 101 to 107

Insert Chapter 108

Revenue Department[701]

Replace Chapter 71

TITLE I
GENERAL DEPARTMENTAL PROCEDURES
CHAPTER 1
DEPARTMENT ORGANIZATION

11—1.1(8A) Creation and mission. The department of administrative services (DAS) is established in Iowa Code chapter 8A. The department manages and coordinates the major resources of state government, including the human, financial, physical and informational resources. The department was created to implement a world-class, customer-focused organization that provides a complement of valued products and services to the internal customers of state government.

The mission of the department is to provide high-quality, affordable infrastructure products and services to its customers—Iowa state government and other government entities—in a manner that allows them to provide better service to the citizens of Iowa and to support the state of Iowa in achieving economic growth.

11—1.2(8A) Location. The department's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0150; telephone (515)242-5120. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The department's Web site at www.das.iowa.gov provides information about all department organizational units and services.

1.2(1) General services enterprise location. The general services enterprise's primary office is located in the Hoover State Office Building, Level A-South, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)242-5120. Office hours are 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

1.2(2) Human resources enterprise location. The human resources enterprise's primary office is located in the Hoover State Office Building, Level A, 1305 East Walnut Street, Des Moines, Iowa 50319-0150; telephone (515)281-3351. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

1.2(3) Information technology enterprise location. The information technology enterprise is located in the Hoover State Office Building, Level B, Des Moines, Iowa 50319. The general office telephone number is (515)281-5503. Hours of operation are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

1.2(4) State accounting enterprise location. The state accounting enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)281-4877. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

1.2(5) Central procurement enterprise location. The central procurement enterprise's primary office is located in the Hoover State Office Building, Third Floor, 1305 East Walnut Street, Des Moines, Iowa 50319; telephone (515)725-2725. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

[ARC 1485C, IAB 6/11/14, effective 7/16/14]

11—1.3(8A) Director. The chief executive officer of the department is the director, who is appointed by the governor with the approval of two-thirds of the members of the senate. The director serves at the pleasure of the governor.

The director has the statutory authority to designate an employee of the department to carry out the powers and duties of the director in the absence of the director, or due to the inability of the director to do so.

Specific powers and duties of the department, its director, boards, task forces, advisory panels, and employees are set forth in Iowa Code chapters 8A, 19B, 20, 70A, and 509A and these administrative rules.

11—1.4(8A) Administration of the department. In order to carry out the functions of the department, the following enterprises and bureaus have been established:

1.4(1) General services enterprise. The mission of the general services enterprise is to act as the state's business agent to meet agencies' needs for quality, timely, reliable and cost-effective support services and provide a work environment that is healthy, safe, and well-maintained. The chief operating officer, appointed by the director, heads the general services enterprise. The following bureaus have been established within the general services enterprise:

a. Capitol complex maintenance. The capitol complex maintenance bureau is responsible for the maintenance, appearance, and facility sanitation of the capitol complex buildings and grounds, including environmental control (heating, ventilation and cooling) and all support features including, but not limited to, parking lot maintenance, main electrical distribution, power generation, water supply, utilities, energy efficiency, wastewater removal, on-site safety consultation, work requests for the capitol complex, major maintenance projects associated with the capitol complex, special event coordination, monuments, physical security and access control.

b. Design and construction resources. The design and construction resources bureau provides administration of public improvement projects, including design services, contracting for construction, and construction management oversight for state agencies except any agency of the state exempted by law. Capital funding appropriated to participating state agencies shall be transferred to the design and construction resources bureau for administration. The design and construction resources bureau is responsible for the administration of major maintenance for agencies in accordance with Iowa Code section 8A.302(4).

c. Fleet. The fleet bureau is responsible for the management of vehicular risk and travel requirements for state agencies not exempted by law.

d. Mail. The mail bureau is responsible for the processing and distribution of mail, which consists of U.S. Mail, UPS, Federal Express, courier service and interoffice mail for the state agencies on the capitol complex and in designated areas in the Des Moines metropolitan area.

e. Service delivery. The service delivery bureau is responsible for the following functions for the enterprise: parking and building access; coordination of events in the public area of the capitol, in other buildings on the capitol complex (excluding the historical building), and on the capitol complex grounds; and providing general information regarding the buildings and grounds on the capitol complex.

f. Real estate services. The real estate services bureau is directly responsible for the management of all leased real estate across the state while also providing real estate consultation services pertaining to acquisition, disposition, and development of real property. Specific services may include market research, opinion of property value, financial analysis, long-term real estate strategy, and project management in accordance with Iowa Code section 8A.321(6). Space planning, including moves, additions, and changes, and surplus property are also coordinated by the bureau.

1.4(2) Human resources enterprise. The human resources enterprise is responsible for human resource management in the executive branch of Iowa state government and provides limited services to the judicial and legislative branches. The mission of the human resources enterprise is to support state agencies in their delivery of services to the people of Iowa by providing programs that recruit, develop, and retain a diverse and qualified workforce, and to administer responsible employee benefits programs for the members and their beneficiaries. The director appoints the chief operating officer of the enterprise. The following bureaus have been established within the human resources enterprise:

a. Benefits. The benefits bureau administers and coordinates the provision of health, dental, life, and disability insurance programs; employee leave programs; workers' compensation, return to work, and loss control and safety programs; 457 deferred compensation; 403(b) tax-sheltered annuity and 401(a) employer match programs; unemployment insurance; and flexible spending and premium conversion programs for state employees.

b. Employment. The employment bureau provides application, referral, recruitment, selection, EEO/AA and diversity services related to state employment; administration of the state classification and compensation programs; and audit of personnel and payroll transactions.

c. Program delivery services. The program delivery services bureau is responsible for employment relations between the state and the certified employee representative; provides consultative services to state departments, boards, and commissions on human resource program matters; provides

organization and employee development services including workforce planning and performance evaluation; and represents the state in contested case matters regarding such programs.

1.4(3) Information technology enterprise. The mission of the information technology enterprise is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens. The director appoints the chief information officer for the state, who also serves as the chief operating officer of the enterprise. The following bureaus have been established within the information technology enterprise:

a. Application and E-government services. The application and E-government services bureau is responsible for support of departmental information technology services; providing software applications development, support, and training; and providing advice and assistance in developing and supporting business applications throughout state government.

b. Infrastructure services. The infrastructure services bureau is responsible for providing server systems, including mainframe and other server operations, desktop support, printing and printing procurement services.

c. Integrated Information for Iowa (I/3) project. The I/3 project office provides the strategic direction, functional deployment, and technical support for the I/3 system, including the enterprise accounting, procurement, budget preparation, human resources and payroll functions for the state of Iowa. I/3's vision is to provide greater responsiveness to customers, improved productivity, increased accountability and efficient delivery of services across state government, and consistent and accurate information that Iowans want.

d. Advisory groups.

(1) Technology governance board. The technology governance board operates pursuant to 2005 Iowa Acts, House File 839.

(2) IOWAccess advisory council. The IOWAccess advisory council is established within the department for the purpose of creating and providing to the citizens of this state a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.

1.4(4) State accounting enterprise. The state accounting enterprise was created to provide for the efficient management and administration of the financial resources of state government. The chief operating officer, appointed by the director, heads the enterprise. The following functional units have been established within the state accounting enterprise:

a. Accounting and daily processing. The accounting and daily processing bureau includes the functions of daily processing, income offset, and financial systems.

b. Other sections. The state accounting enterprise also includes the financial reporting section, the I/3 program team, and the centralized payroll section.

1.4(5) Central administration.

a. Director's office. The director is the chief executive officer for the department. The director's central administration area provides support to the director and to the governmental and business operations of the department and its enterprises. The following functions are included in this area: general counsel; legislative liaison; rules administrator; strategic, performance, and business continuity planning; program oversight and accountability; and departmental and enterprise policy and standards development.

b. Information security office. The information security office is responsible for developing, implementing and maintaining information security policies, standards, and practices that enhance the confidentiality, integrity and availability of computer systems and electronic data resources, and for ensuring enterprise-wide compliance with security requirements. This office includes the chief information security officer for state government.

c. Marketing, communications and council support. Marketing, communications and council support supplies the department's media, public relations, and employee communications services; supports product and service marketing within each of the department's enterprises; and coordinates customer council activities for the department.

1.4(6) Customer management, finance and internal operations. This division provides customer management, finance and internal operations oversight, administration, and support in a manner

that provides accurate and timely information, safeguards assets, and facilitates fiscally responsible, employee-centered and customer-focused decision making for the department. The functional units of the customer management, finance and internal operations division are:

- a. Activity-based costing;
- b. Accounts payable, purchasing, human resources, and administrative support;
- c. Financial reporting and budget; and
- d. Accounts receivable, billing, collections, and customer resource management.

1.4(7) Central procurement enterprise.

a. The central procurement enterprise is charged with procuring goods and services for agencies by Iowa Code chapter 8A. The chief operating officer of the enterprise is appointed by the director and directs the work of the enterprise. These rules and applicable Iowa Code sections apply to the purchase of goods and services of general use by any unit of the state executive branch, except any agencies or instrumentalities of the state exempted by law.

b. The central procurement enterprise shall manage statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

These rules are intended to implement Iowa Code chapter 8A and sections 7E.1 through 7E.5 and 17A.3, and 2005 Iowa Acts, House File 776 and House File 839.

11—1.5 and 1.6 Reserved.

11—1.7(68B) Selling of goods or services. Rescinded IAB 8/16/06, effective 9/20/06.

[Filed emergency 8/29/03—published 9/17/03, effective 9/2/03]

[Filed emergency 10/20/04—published 11/10/04, effective 10/20/04]

[Filed emergency 2/1/05—published 3/2/05, effective 2/1/05]

[Filed 4/7/05, Notice 3/2/05—published 4/27/05, effective 6/1/05]

[Filed emergency 6/15/05—published 7/6/05, effective 7/1/05]

[Filed 9/22/05, Notice 7/6/05—published 10/12/05, effective 11/16/05]

[Filed without Notice 7/28/06—published 8/16/06, effective 9/20/06]

[Filed ARC 0952C (Notice ARC 0812C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1485C (Notice ARC 1302C, IAB 2/5/14), IAB 6/11/14, effective 7/16/14]

TITLE VI
CENTRAL PROCUREMENT

CHAPTER 117
PROCUREMENT OF GOODS AND SERVICES OF GENERAL USE

[Prior to 10/29/03, see 401—Chapters 7, 8, and 9]

[Prior to 8/18/04, see 471—Chapter 13]

[Prior to 8/21/13, see 11—Chapter 105]

11—117.1(8A) General provisions.

117.1(1) Applicability.

a. Goods and services of general use. Under the provisions of Iowa Code Supplement chapter 8A, these rules apply to the purchase of goods and services of general use by any unit of the state executive branch including a commission, board, institution, bureau, office, agency or department, except items used by the state department of transportation, institutions under the control of the board of regents, the department for the blind, and any other agencies or instrumentalities of the state exempted by law.

b. Services. Procurement of services shall also meet the provisions of Iowa Administrative Code, 11—Chapters 118 and 119.

c. Information technology. Pursuant to Iowa Code Supplement chapter 8A, procurement of information technology devices and services by participating agencies shall also meet the requirements of rule 11—117.10(8A). Rule 11—117.10(8A) shall apply to:

(1) The process by which the department shall ensure effective and efficient compliance with standards prescribed by the department with respect to the procurement of information technology devices and services by participating agencies, and

(2) The acquisition of information technology devices and services by the department for the department, or by the department for a participating agency that has requested that the department procure information technology devices or services on the agency's behalf.

117.1(2) Funding. The department and agencies shall follow procurement policies regardless of the funding source supporting the procurement. However, when these rules prevent the state from obtaining and using a federal grant, these rules are suspended to the extent required to comply with the federal grant requirements.

117.1(3) Electronic processing. Notwithstanding other administrative rules, requirements for paper transactions in the procurement of goods and services shall be waived when an alternative electronic process is available. If the vendor is unable to use the electronic process, an alternative paper process may be available.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.2(8A) Definitions.

“Acquisition” or “acquire” is defined in the same manner as “procurement,” “procure,” or “purchase.”

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, “agency” or “state agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly, or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

“All or none” means an award based on the total for all items included in the solicitation.

“American-based business” means an entity that has its principal place of business in the United States of America.

“American-made product” means product(s) produced or grown in the United States of America.

“American motor vehicles” means those vehicles manufactured in this state and those vehicles in which at least 70 percent of the value of the motor vehicle was manufactured in the United States or Canada and at least 50 percent of the motor vehicle sales of the manufacturer are in the United States or Canada.

“Award” means the selection of a vendor to receive a master agreement or order of a good or service.

“Bid specification” means the standards or qualities which must be met before a contract to purchase will be awarded and any terms which the director has set as a condition precedent to the awarding of a contract.

“Board” means the technology governance board established by Iowa Code section 8A.204.

“Competent and qualified” means an architect or engineer who, at the sole discretion of the department, has the capability in all respects to satisfactorily perform the scope of services required by the proposed contract in a timely manner.

“Competitive bidding procedure” means the advertisement for, solicitation of, or the procurement of bids; the manner and condition in which bids are received; and the procedure by which bids are opened, accessed, evaluated, accepted, rejected or awarded. A “competitive bidding procedure” refers to all types of competitive solicitation processes referenced in this chapter and may include a transaction accomplished in an electronic format.

“Competitive selection documents” means documents prepared for a competitive selection by a department or agency to purchase goods and services. Competitive selection documents may include requests for proposal, invitations to bid, or any other type of document a department or agency is authorized to use that is designed to procure a good or service for state government. A competitive selection document may be an electronic document.

“Department” means the department of administrative services.

“Director” means the director of the department of administrative services or the director’s designee.

“Emergency” includes, but is not limited to, a condition:

1. That threatens public health, welfare or safety; or
2. In which there is a need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement; or
3. In which the department or agency must act to preserve critical services or programs; or
4. In which the need is a result of events or circumstances not reasonably foreseeable.

“Emergency procurement” means an acquisition resulting from an emergency need.

“Enterprise” means most or all state agencies acting collectively, unless it is used in a manner such as “state accounting enterprise,” in which case it means the specific unit of the department of administrative services.

“Fair and reasonable price” means a price that is commensurate with the extent and complexity of the services to be provided and is comparable to the price paid by the department or other entities for projects of similar scope and complexity.

“Formal competition” means a competitive selection process that employs a request for proposals or other means of competitive selection authorized by applicable law and results in procurement of a good or service.

“Good” or *“goods”* means products or personal property other than money that is tangible or movable at the time of purchase, including specially manufactured goods. A contract for goods is a contract in which the predominant factor, thrust, and purpose of the contract as reasonably stated is for the acquisition of goods. When there is a contract for both goods and services and the predominant factor, thrust, and purpose of the contract as reasonably stated is for the acquisition of goods, a contract for goods exists.

“Governmental entity” means any unit of government in the executive, legislative, or judicial branch of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; any unit of the United States government; or any association or other organization whose membership consists primarily of one or more of any of the foregoing.

“Informal competition” means a streamlined competitive selection process in which a department or agency makes an effort to contact at least three prospective vendors identified by the department or

purchasing agency as qualified to perform the work described in the scope of work to request that they provide bids or proposals for the delivery of the goods or services the department or agency is seeking.

“Information technology device” means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. “Information technology device” includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

“Information technology services” means services designed to provide functions, maintenance, and support of information technology devices, or services including but not limited to computer systems application development and maintenance; systems integration and interoperability; operating systems maintenance and design; computer systems programming; computer systems software support; planning and security relating to information technology devices; data management consultation; information technology education and consulting; information technology planning and standards; and establishment of local area network and workstation management standards.

“Iowa-based business” means an entity that has its principal place of business in Iowa.

“Iowa product” means a product(s) produced or grown in Iowa.

“Life cycle cost” means the expected total cost of ownership during the life of a product, including disposal costs.

“Limited scope” means only a few specific services are required for a project. An example is a project for which all existing conditions and parameters are clearly evident or defined in a request for proposal, such as a project calling for development of specifications and bidding documents for replacement of an existing boiler.

“Lowest responsible bidder” means the responsible bidder that is fully compliant with the requirements and terms of the competitive selection document and that submits the lowest price(s) or cost(s).

“Master agreement” means a contract arrived at competitively which establishes prices, terms, and conditions for the purchase of goods and services in common use. Agencies may purchase from a master agreement without further competition. These contracts may involve the needs of one or more state agencies. Master agreements for a particular item or class of items may be awarded to a single vendor or multiple vendors.

“Material modification” relating to an approved IT procurement means a change in the procurement of 10 percent or \$50,000, whichever is less, or a change of sufficient importance or relevance so as to have possible significant influence on the outcome.

“Negotiated contract” means a master agreement for a procurement that meets the requirements of Iowa Code Supplement section 8A.207(4)“b.”

“Newspaper of general circulation” means a newspaper meeting the definition set forth in Iowa Code section 618.3.

“Operational standards” means information technology standards established by the department according to Iowa Code Supplement sections 8A.202 to 8A.207 that include but are not limited to specifications, requirements, processes, or initiatives that foster compatibility, interoperability, connectivity, and use of information technology devices and services among agencies.

“Order” means a direct purchase or a purchase from a state contract or master agreement.

“Participating agency,” applicable only to information technology purchases, means any agency other than:

1. The state board of regents and institutions operated under its authority;
2. The public broadcasting division of the department of education;
3. The department of transportation’s mobile radio network;
4. The department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch;
5. The Iowa telecommunications and technology commission, with respect to information technology that is unique to the Iowa communications network;
6. The Iowa lottery authority; and

7. A judicial district department of correctional services established pursuant to Iowa Code section 905.2.

“Printing” means the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by a library of the state or any of its offices, departments, boards, and commissions held as a part of their library collection.

“Printing equipment” means offset presses, gravure presses, silk-screen equipment, large format ink jet printers, digital printing/copying equipment, letterpress equipment, office copiers and bindery equipment.

“Procurement,” “procure,” or *“purchase”* means the acquisition of goods and services through lease, lease/purchase, acceptance of, contracting for, obtaining title to, use of, or any other manner or method for acquiring an interest in a good or service.

“Procurement authority” means an agency authorized by statute to purchase goods and services.

“Responsible bidder” means a vendor that has the capability in all respects to perform the contract requirements. In determining whether a vendor is a responsible bidder, the department may consider various factors including, but not limited to, the vendor’s competence and qualification for the type of services required, the vendor’s integrity and reliability, the past performance of the vendor relative to the quality of the good or service, the past experience of the department in relation to the good or service, the relative quality of the good or service, the proposed terms of delivery, and the best interest of the state.

“Sealed” means the submission of responses to a solicitation in a form that prevents disclosure of the contents prior to a date and time established by the department for opening the responses. Sealed responses may be received electronically.

“Service” or *“services”* means work performed for an agency or its clients by a service provider. A contract for services is a procurement where the predominant factor, thrust, and purpose of the contract as reasonably stated is for services. When there is a mixed contract for goods and services, if the predominant factor, thrust, and purpose of the contract as reasonably stated is for service, with goods incidentally involved, a contract for services exists.

“Services of general use” means services that are not unique to an agency’s program or that are needed by more than one agency. This chapter applies to the purchase of services of general use.

“Software” means an ordered set of instructions or statements that causes information technology devices to process data and includes any program or set of programs, procedures, or routines used to employ and control capabilities of computer hardware. As used in these rules, “software” also includes, but is not limited to, an operating system; compiler; assembler; utility; library resource; maintenance routine; application; or a computer networking program’s nonmechanized and nonphysical components; arrangements; algorithms; procedures; programs; services; sequences and routines utilized to support, guide, control, direct, or monitor information technology equipment or applications; and “data processing software” as defined in Iowa Code section 22.3A(1)“e.”

“Sole source procurement” means a purchase of a good or service in which the department or agency selects a vendor without engaging in a competitive selection process.

“Systems software” means software designed to support, guide, control, direct, or monitor information technology equipment, other system software, mechanical and physical components, arrangements, procedures, programs, services or routines.

“Targeted small business (TSB)” means a targeted small business as defined in Iowa Code section 15.102 that is certified by the department of inspections and appeals pursuant to Iowa Code section 10A.104 and as authorized by Iowa Code chapter 73.

“Upgrade” means additional hardware or software enhancements, extensions, features, options, or devices to support, enhance, or extend the life or increase the usefulness of previously procured information technology devices.

“Vendor” means a person, firm, corporation, partnership, business or other commercial entity that provides services or offers goods for sale or lease.

“*Vendor on-line system*” means a state computer system that enables vendors to conduct business electronically with the state through an Internet location on the World Wide Web.

“*Web*” or “*Web site*” refers to an Internet location on the World Wide Web that provides information, communications, and the means to conduct business electronically.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.3(8A) Competitive procurement. It is the policy of the state to obtain goods and services from the private sector for public purposes to achieve value for the taxpayer through a competitive selection process that is fair, open, and objective. Where feasible, common use items will be purchased cooperatively with state agencies having independent procurement authority to leverage economies of scale, add convenience, standardize common items, and increase efficiencies.

117.3(1) Informal competition. The department may use informal competition or formal competition for the purchase of any good or service or group of goods or services of general use costing less than \$50,000.

117.3(2) Formal competition. The department shall use formal competition for the procurement of any good or service or group of goods or services of general use costing \$50,000 or more.

117.3(3) Construction procurement. Formal competition shall be used for selection of a vendor for construction, erection, demolition, alteration, or repair of a public improvement when the cost of the work exceeds \$100,000 or the adjusted competitive threshold established in Iowa Code section 314.1B.

117.3(4) Purchasing services. Thresholds for the use of formal or informal competition for the procurement of services are governed by rule 11—118.5(8A).

[ARC 0952C, IAB 8/21/13, effective 9/25/13; ARC 1485C, IAB 6/11/14, effective 7/16/14]

11—117.4(8A) Exemptions from competitive procurement. The director or designee may exempt goods and services of general use from competitive procurement processes when the procurement meets one of the following conditions. All procurements that are exempt from competitive processes shall be recorded as such, and appropriate justification shall be maintained by the agency initiating the action. Each of the following exemptions from competitive procurement procedures require additional review and approvals.

117.4(1) Emergency procurement.

a. Justification for emergency procurement. An emergency procurement shall be limited in scope and duration to meet the emergency. When considering the scope and duration of an emergency procurement, the department or agency should consider price and availability of the good or service procured so that the department or agency obtains the best value for the funds spent under the circumstances. The department and agencies shall attempt to acquire goods and services of general use with as much competition as practicable under the circumstances.

b. Special procedures required for emergency procurements. Justification for the emergency purchase shall be documented and submitted to the director or designee for approval. The justification shall include the good or service that is to be or was purchased, the cost, and the reasons the purchase should be or was considered an emergency.

117.4(2) Targeted small business (TSB) procurement.

a. Justification for TSB procurement. Agencies may purchase from a TSB without competition for a purchase up to \$10,000.

b. Special procedures for TSB procurements. Agencies must confirm that the vendor is certified as a TSB by the department of inspections and appeals. An agency may contact the TSB directly.

117.4(3) Iowa Prison Industries (IPI) procurement.

a. Justification for IPI procurement. Agencies shall purchase products from IPI or obtain a written waiver in accordance with Iowa Code section 904.808. See <http://www.iaprisonind.com> for IPI catalog. Purchase of standard office modular components and other furniture items shall be in accordance with 11—subrule 100.6(6).

b. Special procedures for IPI purchases. An agency may contact IPI directly.

117.4(4) *Procurement based on competition managed by other governmental entities.*

a. Justification for procurement based on competition managed by other governmental entities. The department may utilize a current contract, agreement, or purchase order issued by a governmental entity to establish an enterprise master agreement or make a purchase without further competition. The department may join a contract or agreement let by a purchasing consortium when the department reasonably believes it is in the best interest of the enterprise and reasonably believes the contract, agreement, or order was awarded in a fair and competitive manner.

b. Special procedures for procurement based on competition managed by other governmental entities. The department shall notify the other governmental entity and the requesting agency of its intent to use a contract, agreement, or purchase order prior to procuring the good or service in this manner. The department may purchase goods or services from contracts let by other governmental entities provided that the vendor is in agreement and the terms and conditions of the purchase do not adversely impact the governmental entity which was the original signatory to the contract.

117.4(5) *Sole source procurement.*

a. Justification for sole source procurement. A sole source procurement shall be avoided unless clearly necessary and justifiable. The director or designee may exempt the purchase of a good or service of general use from competitive selection processes when the purchase qualifies as a sole source procurement as a result of the following circumstances:

(1) One vendor is the only one qualified or eligible or is quite obviously the most qualified or eligible to provide the good or service; or

(2) The procurement is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity, or ownership of intellectual property rights, could most satisfactorily provide the good or service; or

(3) Applicable law requires, provides for, or permits use of a sole source procurement; or

(4) The federal government or other provider of funds for the goods and services being purchased (other than the state of Iowa) has imposed clear and specific restrictions on the use of the funds in a way that restricts the procurement to only one vendor; or

(5) The procurement is an information technology device or service that is systems software or an upgrade, or compatibility is the overriding consideration, or the procurement would prevent voidance or termination of a warranty, or the procurement would prevent default under a contract or other obligation; or

(6) Other circumstances for services exist as outlined in rule 11—118.7(8A).

b. Special procedures required for sole source procurement. For exemption from competitive processes, the requesting agency shall submit to the director justification that the procurement meets the definition of sole source procurement. Use of a sole source procurement does not relieve the department or an agency from negotiating a fair and reasonable price, investigating the vendor's qualifications and any other data pertinent to the procurement, and thoroughly documenting the action. The agency initiating the procurement shall maintain in a file attached to the order the justification and response from the director. The justification, response, and order shall be available for public inspection.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.5(8A) Preferred products and vendors.**117.5(1)** *Preference to Iowa products and services.*

a. All requests for proposals for materials, products, supplies, provisions and other needed articles and services to be purchased at public expense shall not knowingly be written in such a way as to exclude an Iowa-based company capable of filling the needs of the purchasing entity from submitting a responsive proposal.

b. The department and state agencies shall make every effort to support Iowa products when making a purchase. Tied responses to solicitations, regardless of the type of solicitation, shall be decided in favor of the Iowa products. Tied bids between Iowa products shall be decided in accordance with 117.12(4).

117.5(2) *Preference to Iowa-based businesses.* The department and state agencies shall make every effort to support Iowa-based businesses when making a purchase. Tied responses to solicitations, regardless of the type of solicitation, shall be decided in favor of the Iowa-based business. Tied bids between Iowa-based businesses shall be decided in accordance with 117.12(4).

117.5(3) *American-made products.* The department and agencies shall make every effort to support American-made products when making a purchase. Tied responses to solicitations, regardless of the type of solicitation, shall be decided in favor of the American-made product. Tied bids between American-made products shall be decided in accordance with 117.12(4).

117.5(4) *American-based businesses.* The department and agencies shall make every effort to support American businesses when making a purchase. Tied responses to solicitations, regardless of the type of solicitation, shall be decided in favor of the American-based business. Tied bids between American businesses shall be decided in accordance with 117.12(4).

117.5(5) *Recycled product and content.* The department and agencies shall make every effort to protect Iowa's environment in the procurement of goods. Recycled goods and goods that include recycled content shall be acquired when those goods are available and comparable in quality, performance, and price and there are not other mitigating factors. As required by Executive Order Number 56, the department and agencies shall whenever possible procure durable items that are readily recyclable when discarded, have minimal packaging, and are less toxic.

117.5(6) *Products made by persons with disabilities.* The department and agencies shall make every effort to procure those products for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with mental retardation, other developmental disabilities, or mental illness if the products meet the required specifications.

117.5(7) *Targeted small businesses.* The department and agencies may buy from a targeted small business if a targeted small business is able to provide the good or service, pursuant to Iowa Code section 73.20. When enterprise master agreements with targeted small businesses are available, purchases shall be made through these master agreements.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.6(8A) Centralized procurement authority and responsibilities.

117.6(1) *Centralized procurement of goods and services of general use.* The department shall procure goods and services of general use for all state agencies with the exceptions of those purchases made by the state department of transportation, institutions under the control of the board of regents, the department for the blind, and any other agencies exempted by law.

117.6(2) *Delegation of procurement authority.* The department shall establish guidelines for implementation of procurement authority delegated to agencies. The department shall assist agencies in developing purchasing procedures consistent with central purchasing policy and procedures and recommended governmental procurement standards.

117.6(3) *Planning, research, and development.* The director may establish advisory groups and customer councils of agency representatives appointed by the respective agency directors to assist the department in procurement planning and research and to advise on policies, procedures, and financing. This advice includes, but need not be limited to, market research, product specifications, terms and conditions; purchasing rules and guidelines; purchasing system development; and equitable financing of the enterprise purchasing system. The department will provide staff support for any advisory groups and councils that are created.

The department may periodically require forecasts from state agencies and institutions regarding future procurements. When requesting forecasts, the department shall assist agencies in securing and analyzing historical information related to previous purchasing activity.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.7(8A) Notice of solicitations.

117.7(1) *General notification.*

a. Bid posting. The department and each state agency shall provide notice of solicitations. The department and each state agency shall post notice of every formal competitive bidding opportunity

and proposal to the official Internet site, <http://bidopportunities.iowa.gov>, operated by the department of administrative services in accordance with Iowa Code sections 73.2, 8A.311, and 362.3. Instead of direct posting, the agency may add a link to <http://bidopportunities.iowa.gov> that connects to the Web site maintained by the agency on which requests for bids and proposals for that agency are posted. For the purposes of this subrule, a formal solicitation is as defined by the appropriate procurement authority. Informal competitive bidding opportunities and proposals may also be posted on or linked to the official state Internet site operated by the department of administrative services.

b. Other forms of notice. Notice of competitive bidding opportunities and proposals may be provided by telephone or fax, in print, or by other means that give reasonable notice to vendors, in addition to the posting or linking of formal solicitations to the official Internet site operated by the department of administrative services.

c. Posting of requests for architectural and engineering services. A request for proposals for architectural or engineering services may be posted electronically by a department or state agency in addition to other methods of advertisement required by law.

d. Bids voided. A formal competitive bidding opportunity that is not preceded by a notice that satisfies the requirements of this subrule is void and shall be rebid. This requirement shall be effective for formal competitive bidding opportunities issued on or after September 1, 2005.

117.7(2) Targeted small business notification. Targeted small businesses shall be notified of all solicitations at least 48 hours prior to the general release of the notice of solicitation. The notice shall be distributed to the state of Iowa's 48-hour procurement notice Web site for posting.

117.7(3) Direct vendor notification. All procurement opportunities shall be directly communicated to vendors registered through the state's electronic procurement system, Vendor Self-Serve (VSS), if the vendors have indicated an interest in the type of good or service that is the subject of the solicitation. The notice shall be sent to the E-mail or fax or other address entered on VSS by the vendor.

117.7(4) Advertisement of construction procurement. Construction solicitations shall be advertised twice in a newspaper of general circulation published in the county within which the work is to be done when the cost of the work exceeds \$100,000 or the adjusted competitive threshold established in Iowa Code section 314.1B. Additional means of advertisement used shall be consistent with practices in the construction industry. The department may publish an advertisement in an electronic format as an additional method of soliciting bids.

117.7(5) Vendor intent to participate. In the event the department elects to conduct any procurement electronically or otherwise, it may require that vendors prequalify or otherwise indicate their intention to participate in the procurement process.

[ARC 0952C, IAB 8/21/13, effective 9/25/13; ARC 1485C, IAB 6/11/14, effective 7/16/14]

11—117.8(8A) Types of solicitations. The department may use the following solicitation methods when procuring goods and services of general use for the enterprise.

117.8(1) Informal competition.

a. Description of solicitation. The informal request for bids or proposals may be completed electronically, by telephone or fax, or by other means determined by the department.

b. Response and evaluation. Informal bids shall be tabulated, evaluated, documented and attached to the purchase order.

117.8(2) Formal competition.

a. Description of solicitation. A formal request for bids or proposals shall include:

- (1) Bid due date.
- (2) Time of public bid opening.
- (3) Complete description of commodity needed.
- (4) Buyer's name or code.

b. Response and evaluation. Bids submitted shall be sealed until the date and time of opening. All bids received prior to the date and time set forth on the solicitation will be publicly opened and announced at the designated time and place. All responses shall be documented, evaluated, tabulated and available for public inspection.

117.8(3) Request for bids. A request for bids shall be used to select the lowest responsible bidder from which to purchase goods and services of general use on the basis of price. Vendors may offer goods and services that equal or exceed the state's specifications. Bids that do not meet specifications shall be rejected. The state will not give weight to goods and services offered which exceed specifications. When it is feasible to do so and objective data exists to support the state's decision, the award may be made on a life cycle cost basis.

117.8(4) Requests for proposals.

a. Description of solicitation. The department shall issue a request for proposals whenever a requirement exists for a procurement and cost is not the sole evaluation criterion for selection. The request for proposals shall provide information about a requirement for technical equipment or professional services that is sufficient for the vendor to propose a solution to the requirement. Elements of a request for proposals shall include, but need not be limited to:

- (1) Purpose, intent and background of the requirement.
- (2) Key dates in the solicitation process.
- (3) Administrative requirements for submitting a proposal and format for the proposal.
- (4) Scope of work and performance requirements.
- (5) Evaluation criteria and method of proposal evaluation.
- (6) Contractual terms and conditions.
- (7) Need for a vendor conference.

b. Response and evaluation. Proposals submitted shall be sealed until the date and time of opening. All proposals received prior to the date and time of opening will be opened, and the name of the submitting vendor will be announced. The issuing purchasing officer will review proposals for compliance with requirements before the proposals are submitted for evaluation. A request for proposals shall be evaluated according to criteria that are developed prior to the issuance of the request for proposal document and that consist of factors relating to technical capability and the approach for meeting performance requirements; competitiveness and reasonableness of price or cost; and managerial, financial and staffing capability.

117.8(5) Best and final offer option.

a. Description of solicitation. The department reserves the right at its sole discretion to conduct a best and final offer process prior to making an award. The best and final offer process shall be conducted after the receipt of responses to a solicitation and prior to publicly releasing the responses. Any best and final offer process shall not allow material modification of the original solicitation requirements or of the evaluation criteria.

The department shall provide to affected vendors instructions that describe in specific terms how the department intends to arrive at the final order or master agreement. The instructions may include modifying the initial offer, updating pricing based on any changes the agency has made, and any added inducements that will improve the overall score in accordance with the evaluation. Other types of solicitations described in this rule may be modified to allow for a best and final offer process.

The department may enter into negotiations with the highest ranked vendor or conduct simultaneous negotiations with a number of the most highly ranked vendors whose total scores are relatively close.

b. Response and evaluation. A best and final offer shall arrive by the due date and time determined by the department and shall be sealed. Evaluation of best and final offers shall be conducted in the same manner as original cost proposals. Scores on the best and final offer shall replace the score achieved on the original proposal.

When negotiating with the highest ranked vendor, the department may accept the vendor's best and final offer or reject the offer and open negotiations with the next highest ranked vendor. The department shall proceed in the same manner in rank order. If the state is unable to negotiate an agreement with the highest ranked vendor, the state may negotiate a best and final offer agreement with another vendor. A best and final offer agreement accepted from a subsequent vendor must be more favorable to the state than the rejected offer or offers.

When negotiating with the highest ranked group of vendors, the department shall request the best and final offer from each. The department shall issue a notice of intent to award that is in the best interest of the enterprise.

117.8(6) Reverse auction.

a. Description of solicitation. The department may purchase goods and services through a reverse auction, a repetitive competitive bidding process that allows vendors to submit one or more bids, with each bid having a lower cost than the previous bid. Notice to vendors shall be given as described in this chapter. The notice shall include the start and ending time for the reverse auction and the method in which it will be conducted.

b. Response and evaluation. Vendors intending to participate shall provide to the department a notice of their intent to participate and of their agreement to provide goods or services equal to or exceeding specifications. The department may require vendors to prequalify to participate in a reverse auction. Prequalification may include a requirement to commit to a baseline price.

117.8(7) Invitation to qualify (ITQ). The department may prequalify vendors and make available to an agency a list of vendors that are capable of providing the requested service.

a. Description of solicitation. The department may prequalify vendors for certain classes of solicitations, including but not limited to:

- (1) Information technology consulting,
- (2) Architectural services, and
- (3) Engineering services.

b. Notification of ITQ solicitation. Following institution of a prequalification process, the department may select, in a competitive manner, a prequalified vendor without public notice and without further negotiation of general terms and conditions. A solicitation may be restricted only to prequalified vendors, in addition to the TSB notification required by 117.7(2).

c. Not an award. Vendor prequalification is not an award and does not create an obligation on the part of the department.

d. Purpose. The department shall use an invitation to qualify process for the purpose of facilitating a subsequent solicitation that uses one of the other methods described in these rules. The purposes of using an invitation to qualify process include but are not limited to the following:

- (1) Standardize state terms and conditions relating to the type of procurement, thereby avoiding repetition and duplication.
- (2) Ensure that prequalified vendors are capable of performing work in a manner consistent with operational standards developed and adopted by the department.
- (3) Implement a pay-for-performance model directly linking vendor payments to defined results as required by Iowa Code section 8.47.
- (4) Consolidate records of vendor qualifications and performance in one location for reference and review.
- (5) Reduce time required for solicitation of proposals from vendors for individual procurements.

e. Evaluation criteria. The department shall develop criteria for vendor qualification based upon its own expertise, the recommendations of its advisors, information and research, and the needs of agencies. The department shall develop and specify evaluation criteria for each invitation to qualify. Examples of evaluation criteria may include but are not limited to the following:

- (1) Affirmative responses to a mandatory agreement questionnaire.
- (2) Ratings of at least average on a professional/technical personnel questionnaire.
- (3) Scores in a specified range for each client reference survey.
- (4) Competitive cost data by type of service.
- (5) Acceptable vendor financial information.

f. Issuance of open invitation.

- (1) The department shall issue invitations to qualify on an as-needed basis.
- (2) The department shall specify the period of time that the invitation to qualify will remain open and the time period for applicability.

(3) Vendors may apply for eligibility on a continuous basis during the time period that the invitation to qualify remains open.

g. Response and evaluation.

(1) Vendors seeking to qualify shall be required to meet all the criteria established by the department for a particular category or type of solicitation.

(2) The department shall continuously evaluate vendor applications for placement on a prequalified-vendor list during the period that the invitation to qualify remains open.

h. Acceptable performance levels.

(1) The department shall establish and notify prequalified vendors of minimum acceptable performance levels and institute a performance tracking mechanism on each prequalified vendor.

(2) An approved vendor remains qualified for the period specified by the department unless the vendor does not meet minimum acceptable performance levels.

(3) If a vendor's performance falls below the minimum acceptable level, the vendor shall be removed from the prequalified list.

(4) A vendor that does not prequalify or that is removed from the prequalified list due to the vendor's performance has the right to appeal in accordance with rule 11—117.20(8A).

i. Information technology purchases from a prequalified vendor. Before a participating agency may acquire an information technology device or service from a prequalified vendor, the agency must obtain all of the required approvals from the department pursuant to rule 11—117.10(8A).

117.8(8) Other types of solicitations. The department may use other types of competitive solicitations not outlined in these rules if the following conditions are met:

a. The solicitation method has been clearly described in public notice.

b. The solicitation method includes fair and objective criteria for determining the award.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.9(8A) Procurement of architectural and engineering services.

117.9(1) Qualifications. As part of the competitive selection process, the department shall determine whether an architect or engineer is competent and qualified. In making this determination, the department may consider the following factors:

1. Professional licensing or registration credentials,
2. Integrity and reliability,
3. Past performance relative to the quality and timeliness of service on similar projects,
4. Past experience with the state in relation to services provided,
5. Quality and timeliness of the services provided,
6. The proposed terms of delivery, and
7. The best interests of the state.

117.9(2) Fair and reasonable price. As part of the competitive selection process, the department may request, in addition to the architect's or engineer's qualifications, pricing information that may include a total fee for the specified services, hourly rates, or other pricing measures that will help the department establish a fair and reasonable price.

a. The department shall request a fee proposal(s) as part of the competitive selection process only when the services required are of limited scope, limited duration or otherwise clearly defined. An award shall not be made solely on the basis of the lowest price.

b. When a fee is not requested as part of the competitive selection process, other pricing factors shall be requested, and the firm deemed most qualified will be asked to negotiate a fee using the pricing factors included in the firm's proposal. If a fair and reasonable price for the work cannot be negotiated, the department shall reject the firm's proposal and begin negotiations for a fair and reasonable price with the next most qualified firm.

Examples of fair and reasonable pricing factors include:

- (1) Hourly rates and anticipated hours,
- (2) A lump sum fee,
- (3) Any other costs the department determines to be fair and reasonable.

c. If reimbursable expenses are included in the price proposal, rates shall not exceed those in procedure 210.245, "Travel-in-state—board, commission, advisory council, and task force member expenses," of the department of administrative services state accounting enterprise's Accounting Policy and Procedures Manual.

d. The fee proposal or other pricing information shall serve as a basis for contract negotiations. [ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.10(8A) Procurement of information technology devices and services. This rule applies to the procurement of information technology devices and services by participating agencies.

117.10(1) Approval of participating agency information technology procurements.

a. All procurement of information technology devices and services must meet operational standards prescribed by the department.

b. With the exception of requests for proposals (RFPs) which are approved by the technology governance board, procurement of all information technology devices and services, projects and outsourcing of \$50,000 or more or a total involvement of 750 participating agency staff hours or more must receive prior approval from the department of administrative services, information technology enterprise (DAS/ITE), before a participating agency issues a competitive selection document or any other procurement document or otherwise seeks to procure information technology devices or services or both through the department or on its own purchasing authority. The participating agency's approval request shall be in a form prescribed by the department.

c. Participating agencies shall notify the technology governance board in writing on a quarterly basis that technology purchases made during the previous quarter were in compliance with the technology governance board's procurement rules and information technology operational standards.

d. Participating agencies shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements of this subrule.

117.10(2) Review process for proposed procurements.

a. With the exception of requests for proposals (RFPs) which are approved by the technology governance board, the department shall review a proposed information technology procurement of a participating agency regardless of funding source, method of procurement, or agency procurement authority.

b. The department shall review a proposed procurement for compliance with operational standards established by the department.

c. Once procurement is approved, ongoing approval by the department is not required provided that the procurement or scope of work remains consistent with the previously approved procurement or scope of work.

d. Participating agencies shall obtain the department's approval anytime a material modification of the procurement or the scope of work is completed. Review and approval by the department is required prior to implementation of a material modification to a previously approved proposed procurement by a participating agency or by the department on behalf of a participating agency.

e. After approval of the procurement is forwarded to the agency contact person and appropriate procurement authority contacts, the procurement may proceed.

f. When a procurement is not approved, the agency contact will be notified of available options, which include modification and resubmission of the request, cancellation of the request, or requesting a waiver from the director on the recommendation of the technology governance board pursuant to subrule 117.10(3).

g. The department may periodically audit procurements made by a participating agency for compliance with this rule and operational standards of the department. When the audit determines that inconsistencies with established operational standards or with this rule exist, the participating agency shall comply with technology governance board directives to remedy the noncompliance.

h. Information technology devices and services not complying with applicable operational standards shall not be procured by any participating agency unless a waiver is granted by the director on the recommendation of the technology governance board.

i. Upon request by a participating agency, the department may procure, as provided by these rules, any information technology devices or information technology services requested by or on behalf of an agency and accordingly bill the agency through the department's regular process for the information technology devices or information technology services or for the use of such devices or services.

j. The department may provide pertinent advice to a procurement authority or participating agency regarding the procurement of information technology devices or services, including opportunities for aggregation with other procurements.

k. The department shall establish and maintain a Web page (http://das.ite.iowa.gov/standards/enterprise_it/index.html) of current operational standards for information technology devices and services. The Web page shall be updated from time to time with additions, deletions and modifications.

117.10(3) *Waiver requests for operational standards.*

a. Waiver requests. In the event a participating agency is advised that its proposed procurement is disapproved and the participating agency seeks a waiver of operational standards, it must file its written waiver request with the department within five calendar days of the date of the disapproval. The waiver request shall be filed pursuant to rule 11—25.6(8A).

b. Hearing. The department may conduct a hearing with the participating agency regarding the waiver request. Additional evidence may be offered at the time of the hearing. Oral proceedings shall be recorded either by mechanized means or by a certified shorthand reporter. Parties requesting that the hearing be recorded by a certified shorthand reporter shall bear the costs. Copies of tapes of oral proceedings or transcripts recorded by certified shorthand reporters shall be paid for by the requester.

c. Burden of proof. The burden of proof is on the participating agency to show that good cause exists to grant a waiver to the participating agency to complete the proposed procurement.

d. The director shall notify the participating agency in writing of the decision to grant or deny the waiver. In the event a waiver is denied, the participating agency may appeal pursuant to Iowa Code section 679A.19.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.11(8A) Specifications in solicitations. All specifications used in solicitations shall be written in a manner that encourages competition.

117.11(1) *Limitations on brands and models.* Specifications shall be written in general terms without reference to a particular brand or model unless the reference is clearly identified as intending to illustrate the general characteristics of the item and not to limit competition. A specific brand or model may be procured only when necessary to maintain a standard required or authorized by law or rule or for connectivity or compatibility with existing commodities or equipment.

117.11(2) *Recycled content and products.* When appropriate, specifications shall include requirements for the use of recovered materials and products. The specifications shall require, at a minimum, that all responses to a solicitation include a product content statement that describes the percentage of the content of the item that is reclaimed material.

The department shall revise specifications developed by agencies if the specifications restrict the use of alternative materials, exclude recovered materials, or require performance standards that exclude products containing recovered materials unless the agency seeking the product can document that the use of recovered materials will impede the intended use of the product.

Specifications shall support the following procurements:

a. Products containing recovered materials, including but not limited to lubricating oils, retread tires, building insulation materials, and recovered materials from waste tires.

b. Bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with Iowa Code Supplement section 8A.316.

117.11(3) *Life cycle cost and energy efficiency.* The department and agencies shall utilize life cycle cost and energy efficiency criteria in developing standards and specifications for procuring energy-consuming products.

117.11(4) *All or none solicitations.* A solicitation may specify whether or not responses will be accepted on an all or none basis. Only when this statement appears on the solicitation may it be included in the response. The department may award either by item or by lot, whichever is to the advantage of the enterprise.

117.11(5) *Financial security.* The department may require bid, litigation, fidelity, and performance security as designated in the solicitation documents. When required, a security may be by certified check, cashier's check, certificate of deposit, irrevocable letter of credit, bond, or other security acceptable to the department.

When required, a security shall not be waived. The security provided by vendors shall be retained until all provisions of the solicitation have been met. The security will then be returned to the vendor.

117.11(6) *Vehicle procurement.*

a. Specifications for procurement of all non-law enforcement, light-duty vehicles, excluding those purchased and used for off-road maintenance work or to pull loaded trailers, shall be for flexible fuel vehicles (as defined by Iowa Code section 8A.362(5)) when an equivalent flexible fuel model is available.

b. Use of specifications for hybrid-electric or other alternative fuel vehicles (as defined by Iowa Code section 8A.362(5)) is encouraged. Procurement of hybrid-electric or other alternative fuel vehicles may be dependent upon whether the costs of the vehicle's life cycle are equivalent to a non-alternative fuel vehicle or non-flexible fuel vehicle (a vehicle with a gasoline E10 engine) prior to the year 2010.

c. The life cycle costs of American motor vehicles shall be reduced by 5 percent in order to determine if the motor vehicle is comparable to foreign-made motor vehicles. The life cycle costs of a motor vehicle shall be determined on the basis of the bid price, the resale value, and the operating costs based upon a useable life of five years or 75,000 miles, whichever occurs first.

d. The average fuel efficiency for new passenger vehicles and light trucks, as defined in paragraph 117.11(6) "a," that are purchased in a year shall equal or exceed the average fuel economy standard for the vehicles' model years as published by the United States Secretary of Transportation.

117.11(7) *Bulk diesel fuel procurement.* Specifications for procurement of all bulk diesel fuel shall ensure that all bulk diesel procured has at least 5 percent renewable content by 2007, 10 percent renewable content by 2008, and 20 percent renewable content by 2010, provided that fuel that meets the American Society for Testing and Materials (ASTM) D-6751 specification is available. Bulk diesel fuel that is used exclusively for emergency generation is exempt from the renewable content requirement.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.12(8A) Awards. The department shall select a vendor on the basis of criteria contained in the competitive selection document.

117.12(1) *Intent to award.* After evaluating responses to a solicitation using formal competition, the department shall notify each vendor submitting a response to the solicitation of its intent to award to a particular vendor or vendors subject to execution of a written contract(s). Documentation of awards for solicitations using informal competition will be made available to interested parties upon request. This notice of intent to award does not constitute the formation of a contract(s) between the state and successful vendor(s). If a vendor is not registered on the vendor on-line system and does not provide an E-mail address or fax number, the notice will be mailed.

117.12(2) *Rejection of bids.* The department reserves the right to reject any or all responses to solicitations at any time for any reason. New bids may be requested at a time deemed convenient to the department and agency involved.

117.12(3) *Minor deficiencies and informalities.* The department reserves the right to waive minor deficiencies and informalities if, in the judgment of the department, the best interest of the state of Iowa will be served.

117.12(4) *Tied bids.*

a. Whenever a tie involves an Iowa vendor and a vendor outside the state of Iowa, the Iowa vendor will receive preference. Whenever a tie involves one or more Iowa vendors and one or more vendors outside the state of Iowa, the drawing will be held among the Iowa vendors only. Tied bids involving

Iowa-produced or Iowa-manufactured products and items produced or manufactured outside the state of Iowa will be resolved in favor of the Iowa product.

b. In the event of a tied bid between Iowa vendors, the department shall contact the Iowa Employer Support of the Guard and Reserve (ESGR) committee for confirmation and verification as to whether the vendors have complied with ESGR standards. Preference, in the case of a tied bid, shall be given to Iowa vendors complying with ESGR standards.

c. An award shall be determined by a drawing when responses are received that are equal in all respects and tied in price. Whenever it is practical to do so, the drawing will be held in the presence of the vendors who are tied in price. Otherwise the drawing will be made in front of at least three noninterested parties. All drawings shall be documented.

117.12(5) *Consideration of life cycle costs.* When appropriate to the procurement, life cycle costs shall be considered during the award process.

117.12(6) *Trade-ins.* When applicable and in the best interest of the state, the department may trade in devices or services to offset the cost of devices or services in a manner consistent with procurement practices to ensure accountability with the state's fixed asset inventory system.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.13(8A) Master agreements available to governmental subdivisions.

117.13(1) Contracts entered into by the department may be extended to, and made available for the use of, other governmental entities as defined in Iowa Code Supplement section 8A.101.

117.13(2) The department shall provide a list of current master agreements to a governmental subdivision upon request. The list may be provided in an electronic format. A governmental subdivision may request a copy of a specific master agreement. The department may provide the master agreement in an electronic format and assess a copying charge when a printed copy is requested.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.14(8A) Agency purchasing authority and responsibilities.

117.14(1) *Purchase of goods.* An agency may acquire goods not otherwise available from a master agreement in accordance with the procurement threshold guidelines in 11—117.15(8A).

117.14(2) *Purchase of services.* An agency may procure services unique to the agency's program or used primarily by that agency and not by other agencies. The department will assist agencies with these procurements upon request. Procurement of services by an agency shall comply with the provisions of 11—Chapters 118 and 119.

117.14(3) *Procurement of printing.*

a. As the first step in the printing procurement process, an agency may provide its request to state printing. State printing may produce the printing internally or procure the printing for the agency.

b. An agency may procure printing. Procurement of printing by an agency shall utilize formal or informal competitive selection, pursuant to 11—117.3(8A). The agency's internal procedures and controls for competitive selection of a printing vendor shall be consistent with the requirements of the department and the state auditor.

117.14(4) *Procurements requiring additional authorization.* Except where exempted by statute, the following purchases require additional approval.

a. Information technology devices, software and services, as required in Iowa Code Supplement sections 8A.202 and 8A.206 and rule 11—117.10(8A).

b. Vehicles, as prescribed in Iowa Code Supplement sections 8A.361 and 8A.362.

c. Architectural and engineering services, except for agencies with independent authority, as prescribed in Iowa Code Supplement sections 8A.302, 8A.311, 8A.321, 218.58, and 904.315.

d. Legal counsel, as prescribed in Iowa Code section 13.7.

e. Telecommunications equipment and services, as required by Iowa Code chapter 8D and the rules of the telecommunications and technology commission.

117.14(5) *Establishment of agency internal procedures and controls.* Agencies shall establish internal controls and procedures to initiate purchases, complete solicitations, make awards, approve purchases, and receive goods. The procedures shall address adequate public recordings of the purchases

under the agency's authority consistent with law and rule. Internal controls and security procedures that are consistent with the requirements of the department and state auditor, including staff authority to initiate, execute, approve, and receive purchases, shall be in place for all phases of the procurement.

117.14(6) *Agency receipt of goods.* Agencies receiving goods shall:

a. Inspect or otherwise determine that the goods received meet the specifications, terms and conditions within the order or master agreement,

b. Initiate timely payment for goods meeting specifications, and

c. Document the receipt of goods electronically in a manner prescribed by the department.

All provisions of 11—117.19(8A) shall apply to agency receipt of goods.

117.14(7) *Partial orders.* Agencies may accept partial orders and await additional final receipt or may accept a partial order as a final order. The agency shall notify the vendor of its decision. An agency may pay a vendor a prorated amount for the partial order.

117.14(8) *Items not meeting specifications.* An agency shall not approve final receipt when goods appear not to meet specifications. An agency shall approve final receipt only when satisfied that the goods meet or exceed the specifications and terms and conditions of the order or master agreement. When an agency and vendor are unable to agree as to whether the specifications, terms and conditions are met, the department shall make the decision.

Agencies shall notify the department and the vendor when apparent defects are first noticed. The department will assist the agency with negotiating a satisfactory settlement with the vendor.

117.14(9) *Payment to vendors following final receipt.* An agency shall not unreasonably delay payment on orders for which final receipt is accepted. Except in the case of latent defects in goods, payment to the vendor by the agency signifies agreement by the agency that the goods received are satisfactory. Payment to vendors may be made by any commercially acceptable method, including a state procurement card, in accordance with state financial requirements.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.15(8A) Thresholds for delegating procurement authority.

117.15(1) *Agency direct purchasing—basic level.* An agency may procure non-master agreement goods up to \$5,000 per transaction in a competitive manner. Three or more informal quotes shall be obtained, unless quotes are not reasonably available or unless the item is purchased from a targeted small business. The agency shall document the quotes, or circumstances resulting in fewer than three quotes, in an electronic file attached to the order or in another format.

117.15(2) *Agency direct purchasing—advanced level.* An agency may procure non-master agreement goods up to \$50,000 per transaction in a competitive manner only in the event the agency personnel engaged in the purchase of goods have completed enhanced procurement training established by the director or designee.

117.15(3) *Preference to targeted small businesses.* Agencies shall search the TSB directory on the Web and purchase directly from the TSB source if it is reasonable and cost-effective to do so. Agencies shall comply with the TSB notification requirements in subrule 117.7(2).

117.15(4) *Alternative to master agreement.* An agency may purchase a comparable good or service of general use available on a master agreement from a different vendor if the quantity required or an emergency or immediate need makes it cost-effective to purchase from a non-master agreement vendor. In instances where an agency or agencies routinely or on a recurring basis purchase a specific good or service not on contract, the department shall establish a master agreement for that good or service in cooperation with the affected agencies.

117.15(5) *Misuse of agency authority.*

a. Purchasing authority delegated to agencies shall not be used to avoid the use of master agreements. Because it is cost-effective to purchase a good or service of general use from a master agreement, the agency shall do so. The agency shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements in subrules 117.15(1) and 117.15(2).

b. As a remedy, the department may recover administrative fees appropriate to the improper execution of procurement.

c. This rule is not intended to prohibit agencies from aggressively seeking competitive prices. Agencies may purchase outside of master agreements under subrule 117.15(4).

d. The department may rescind delegated authority of an agency that misuses its authority or uses the authority to procure goods or services already available on a master agreement.
[ARC 0952C, IAB 8/21/13, effective 9/25/13; ARC 1485C, IAB 6/11/14, effective 7/16/14]

11—117.16(8A) Printing. This rule provides guidelines for the letting of contracts for public printing by the department and by state agencies, including the enforcement by the department of contracts for printing, except as otherwise provided by law.

117.16(1) *Competitive selection for printing.* The department and state agencies shall procure printing by competitive selection according to the rules of this chapter except when the printing is produced by state printing, pursuant to 11—102.4(8A) or the procurement is otherwise exempt from competitive selection pursuant to 11—117.4(8A). When an agency elects to purchase printing by competitive selection rather than using the services of state printing or a TSB, state printing and TSBs shall be part of the bidding process.

117.16(2) *Specifications for printing.*

a. *Preparation of written specifications.* The department or a state agency shall procure printing by preparing a competitive selection document with written specifications and issue the same to bidders. The bid specifications shall become a part of the printing contract.

b. *Inspection of specifications.* All specifications shall be held on file in the department's printing division office or the office of the state agency conducting the solicitation and shall be available for inspection by prospective bidders.

117.16(3) *Notification of solicitation for printing.* The department or a state agency conducting the solicitation shall provide notification of the solicitation for printing to vendors.

117.16(4) *Bid bonds for printing.*

a. *When applicable.* Security in the form of a bid bond or a certified or cashier's check may be required from printing vendors.

b. *Amount of bonds.* If a bid bond is required, each formal bid for printing must be accompanied by a certified or cashier's check for the amount stated in the specifications. An annual bid bond in an amount set by the department may be deposited with the department by the bidder to be used in lieu of a certified or cashier's check. The amount of the bond is fixed annually and bonds are dated from July 1 to June 30 of the following year.

c. *Return of bid bonds.* Checks of unsuccessful bidders will be returned when the printed item is contracted. The check of the successful bidder will be returned when the performance bond is received and accepted by the department or by the state agency conducting the solicitation.

d. *Performance bonds.* When required by the specifications, the successful bidder must deposit with the department or with the state agency conducting the solicitation a performance bond equal to 10 percent of the contract price unless otherwise stated in the specifications. The performance bond must be deposited within 21 days of the date the contract or bond paperwork is issued to the vendor by the department or agency.

e. *Forfeiture of bid bond.* Failure to enter into a contract by the successful bidder within ten days of the award may result in forfeiture of 10 percent of the bid bond or the certified or cashier's check, if a check is on deposit in lieu of a bond.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.17(8A) Vendor registration and approval. Every vendor wishing to do business with the state shall register as a vendor. Every vendor shall register prior to submitting a response to a solicitation except in the case of an emergency procurement when the vendor shall register prior to filling an order or as soon as practicable. Only properly registered vendors are entitled to payment.

117.17(1) *Vendor on-line registration.* Vendors are encouraged to register electronically using the vendor on-line system when it becomes available. Vendors that are registered on the vendor on-line system are eligible for all services at the site, including receiving electronic notices of solicitations and submitting an electronic response to a solicitation.

Information from vendors completing registration through the vendor on-line system shall be protected through the use of uniquely identifying information known only to the department and the vendor to confirm the identity of the vendor for all subsequent actions, including responses to solicitations.

The department may take action to restrict or deny use of the vendor on-line system in response to inappropriate use of the site. The department may edit or delete a vendor's posting on the vendor bulletin board if the posting is not appropriate to the business of state purchasing.

117.17(2) *Alternate vendor registration.* A vendor may register by directly contacting the department or an agency initiating a procurement.

117.17(3) *Vendor registration information maintenance.* Vendors are responsible for maintaining current and accurate registration information. If registered on the vendor on-line system, the vendor shall update the vendor's account whenever information changes. If registered in an alternate manner, the vendor is responsible for notifying the department or agency of any change in information. This information includes, but is not limited to, company name or type, payment address, procurement address and other contact information.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.18(8A) Vendor performance.

117.18(1) *Review of vendor performance.* The department, in cooperation with agencies, shall periodically, but at least directly prior to renewal of a master agreement, review the performance of vendors. Agencies are encouraged to document vendor performance throughout the duration of the contract and report any problems to the department as they are identified. Performance reviews shall be based on the specifications of the master agreement or order, and shall include, but need not be limited to:

1. Compliance with the specifications,
2. On-time delivery, and
3. Accuracy of billing.

This review will help determine whether the vendor is a responsible bidder for future projects.

117.18(2) *Vendor suspension or debarment.* Prior performance on a state contract may cause a vendor to be disqualified or prevent the vendor from being considered a qualified bidder. In addition, a vendor may be suspended or debarred for any of the following reasons:

- a. Failure to deliver within specified delivery dates without agreement of the department or the agency.
- b. Failure to deliver in accordance with specifications.
- c. Attempts to influence the decision of any state employee involved in the procurement process.
- d. Evidence of agreements by vendors to restrain trade or impede competitive bidding. Such activities shall in addition be reported to the attorney general for appropriate action.
- e. Determination by the civil rights commission that a vendor conducts discriminatory employment practices in violation of civil rights legislation and executive order.
- f. Evidence that a vendor has willfully filed a false certificate with the department.
- g. Debarment by the federal government.

117.18(3) *Correcting performance.* The department shall notify in writing any vendor considered for suspension or debarment and provide the vendor an opportunity to cure the alleged situation. If the vendor fails to remedy the situation after proper notice, the department director may suspend the vendor from eligibility for up to one year or debar the vendor from future business depending on the severity of the violation. The appeal provisions of this chapter shall apply to the decision of the director.

117.18(4) *Remedies for failure to deliver or for delivery of nonconforming goods or services.* If a vendor fails to remedy the situation after the opportunity to cure is provided, the department or agency may procure substitute goods or services from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The attorney general shall be requested to make collection from the defaulting vendor.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.19(8A) General instructions, terms and conditions for vendors. The following instructions, terms and conditions shall apply to all solicitations unless otherwise stated in the solicitation.

117.19(1) *Instructions for vendors.* The vendor must follow all instructions in the manner prescribed and furnish all information and samples as stated in the solicitation. Minor deficiencies and informalities may be waived if, in the judgment of the department, the best interests of the state will be served.

117.19(2) *Deadline for submission of bid or proposal.* It is the responsibility of the vendor to submit a response to a solicitation according to time, date, and place stated in the solicitation documents. Late responses will be rejected. Unfamiliarity with a geographical location, weather events, labor stoppages, failure of a carrier to meet promised delivery schedules, mechanical failures, and similar reasons are not sufficient justifications for the department to accept a late bid or proposal. At its sole discretion, the department may accept a late response if the delay is due to a catastrophic event and acceptance by the department does not result in an advantage to a competitor.

117.19(3) *Confidential information in a solicitation response.* Unless material submitted in response to a solicitation is identified as proprietary or confidential by the vendor in accordance with Iowa Code section 22.7, all submissions by a vendor are public information. To facilitate a fair and objective evaluation of proposals, submissions by vendors will not be released to competitors or the public prior to issuance of the notice of intent to award. If a vendor's claim of confidentiality is challenged by a competitor or through a request by a citizen to view the proposal, it is the sole responsibility of the vendor to defend the claim of confidentiality in an appropriate venue. The department will not release the subject material while the matter is being adjudicated.

117.19(4) *Recycled products.* A vendor shall be required to include for all applicable procurements a product content statement providing the percentage of the content of the item that is reclaimed material.

117.19(5) *Modifications or withdrawal of a solicitation response.* A solicitation response may be withdrawn or modified prior to the time and date set for opening. Withdrawal or modification requests shall be in writing. With the approval of the director or designee, a bid or proposal may be withdrawn after opening only if the vendor provides prompt notification and adequately documents the commission of an honest error that might cause undue financial loss. The department may contact a vendor to determine if an error occurred in the vendor's proposal.

117.19(6) *Security.* The department may require bid or proposal security in accordance with subrule 117.11(5). When required, security shall not be waived.

117.19(7) *Assignments.* A vendor may not assign an order or a master agreement to another party without written permission from the department.

117.19(8) *Strikes, lockouts or natural disasters.* A vendor shall notify the department promptly whenever a strike, lockout or catastrophic event prevents the vendor from fulfilling the terms of an order or contract. The department and affected agency may elect to cancel an order or master agreement at their discretion.

117.19(9) *Subcontractors or secondary suppliers.* Vendors shall be responsible for the actions of and performance of their subcontractors or secondary suppliers. Vendors shall be responsible for payment to all subcontractors or secondary suppliers. Vendors awarded a state construction contract shall disclose the names of all subcontractors within 48 hours after the award of the contract and advise the department of changes in the names of subcontractors throughout the duration of the project.

117.19(10) *Material and nonmaterial compliance.* At its sole discretion, the department reserves the right to waive technical noncompliance with instructions when such noncompliance, as viewed by a reasonable and prudent person, did not result in an advantage to the vendor submitting the apparent lowest bid or best proposal or would not result in a disadvantage to other vendors submitting competing bids or proposals.

117.19(11) *Item and pricing.* Price information shall be submitted in response to a solicitation as stated in the instructions. In the case of an error, unit price shall prevail. Unless otherwise stated, all prices shall be submitted with free-on-board (FOB) destination including freight and handling costs.

Prices for one-time purchases must be firm, and preference will be given to firm prices in multiple award contracts. If the department believes it is in the best interest of the state, an economic price

adjustment clause based on an acceptable economic indicator may be included in multiple delivery contracts.

a. Price during testing. Items may require testing either before or after the final award is made. In these cases, the vendor must guarantee the price through the completion of testing.

b. Unless otherwise contained in the specifications, all items for which a vendor submits a quotation shall be new, of the latest model, crop year or manufacture and shall be at least equal in quality to those specified.

c. Escalator clauses. Unless specifically provided for in the solicitation document, a response containing an escalator clause that provides for an increase in price will not be considered.

d. Discounts. Only cash discounts that apply to payment terms of 30 days or more will be considered in determining awards. Other payment terms will not be considered. The state will attempt to earn any discounts offered and will compute the period from the latest of the following:

- (1) From date of invoice.
- (2) From the date the complete order is received.
- (3) From the date the vendor's certified invoice is received.

When additional testing of a product is required after delivery, the discount period shall not begin until testing is completed and final approval made.

117.19(12) Notice of intent to award. After evaluating responses to a solicitation, the department shall notify each vendor submitting a response to the solicitation of its intent to award to a particular vendor or vendors subject to execution of a written contract(s). This notice does not constitute the formation of a contract(s) between the state and the vendor(s) to which the notice of intent to award has been issued.

If a vendor is not registered on the vendor on-line system and does not provide an E-mail address or fax number, the notice will be sent by ordinary mail.

117.19(13) Time of acceptance of award. If a time is not stated in the competitive selection document, the vendor may state the length of time that the state has to accept the vendor's offer. This period shall not be less than 10 days for informal quotations or less than 30 days for formal bids. If the vendor states no minimum time period, the offer shall be irrevocable for 90 days. The department may require a longer evaluation period for technical equipment.

117.19(14) Delivery.

a. *Delivery date.* A vendor shall show in a response to a solicitation the earliest date on which delivery can be made. The department may include in a solicitation the acceptable delivery date for a commodity. The department may consider delivery dates as a factor in determining to which vendor the notice of intent to award shall be issued. Goods in transit remain the responsibility of the vendor.

b. *Notice of rejection.* The reason for any rejection of a shipment, based on apparent deficiencies that can be disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item with a copy of this notice provided to the purchasing section. Notice of latent deficiencies that would make items unsatisfactory for the intended purpose may be given at any time after acceptance.

c. *Disposition of rejected item.* The vendor must remove at the vendor's expense any rejected item. If the vendor fails to remove the rejected item within 30 days of notification, the department or an agency may dispose of the item by offering it for sale, deduct any accrued expense and remit the balance to the vendor.

d. *Testing after delivery.* Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test will be made and that payment will be withheld until completion of the testing process.

e. *Risk of loss or damage.* Risk of loss or damage remains with the vendor until delivery and acceptance by the agency at the destination shown on the order.

f. *Vendor responsibility for removal of trade-ins.* Whenever the purchase of an item of equipment has been made with the trade-in of equipment, it shall be the vendor's responsibility to remove the traded equipment within 30 days of the final acceptance of the purchased equipment by the agency, if not otherwise specified in the competitive selection document. The department or agency will not

assume responsibility for equipment that is not removed within this time period and may cause the equipment to be removed by and shipped to the vendor and may bill the vendor for all packing, crating and transportation charges.

117.19(15) *Master agreement and purchase order modifications.* When consistent with the purpose and intent of the original master agreement or order, amendments or modifications may be issued. All modifications shall be documented and approved by the department or agency and the vendor before modifications take effect. Modifications shall not be used unreasonably to avoid further competition.

117.19(16) *Federal and state taxes.* The state of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity or service. A vendor shall be furnished a revenue department exemption letter upon request.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—117.20(8A) Vendor appeals.

117.20(1) *Filing an appeal.* Any vendor that filed a timely bid or proposal and that is aggrieved by an award of the department may appeal the decision by filing a written notice of appeal before the Director, Department of Administrative Services, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319, within five calendar days of the date of award, exclusive of Saturdays, Sundays, and legal state holidays. The department must actually receive the notice of appeal within the specified time frame for it to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the department's award.

117.20(2) *Procedures for vendor appeal.* The vendor appeal shall be a contested case proceeding and shall be conducted in accordance with the provisions of the department's administrative rules governing contested case proceedings, unless the provisions of this rule provide otherwise.

a. Notice of hearing. Upon receipt of a notice of vendor appeal, the department shall contact the department of inspections and appeals to arrange for a hearing. The department of inspections and appeals shall send a written notice of the date, time and location of the appeal hearing to the aggrieved vendor or vendors.

The presiding officer shall hold a hearing on the vendor appeal within 60 days of the date the notice of appeal was received by the department.

b. Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

c. Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least 10 days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

d. Amendments to notice of appeal. The aggrieved vendor may amend the grounds upon which the vendor challenges the department's award no later than 15 days prior to the date set for the hearing.

e. If the hearing is conducted by telephone or on the Iowa communications network, the parties must deliver all exhibits to the office of the presiding officer at least 3 days prior to the time the hearing is conducted.

f. The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to all parties by first-class mail.

g. The record of the contested case shall include all materials specified in Iowa Code subsection 17A.12(6).

(1) Method of recording. Oral proceedings in connection with a vendor appeal shall be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that certified shorthand reporters record the hearing shall bear the costs.

(2) Transcription. A party may request that oral proceedings in connection with a hearing in a case or any portion of the oral proceedings be transcribed. A party requesting transcription shall bear the expense of the transcription.

(3) Tapes. Parties may obtain copies of tapes of oral proceedings from the presiding officer at the requester's expense.

(4) Retention time. The department shall file and retain the recording or stenographic notes of oral proceedings or the transcription for at least five years from the date of the decision.

117.20(3) Stay of agency action for vendor appeal.

a. When available.

(1) Any party appealing the issuance of a notice of award may petition for stay of the award pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

(2) Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order, and shall state the reasons justifying a stay.

b. When granted. In determining whether to grant a stay, the director shall consider the factors listed in Iowa Code section 17A.19(5) "c."

c. Vacation. A stay may be vacated by the issuing authority upon application of the department or any other party.

117.20(4) Review of proposed decision.

a. The proposed decision shall become the final decision of the department 15 days after mailing the proposed decision, unless prior to that time a party submits an appeal of the proposed decision in accordance with the provisions of this subrule.

b. A party appealing the proposed decision shall mail or deliver the notices of appeal to the Director, Department of Administrative Services, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. Failure to request review will preclude judicial review unless the department reviews the proposed decision on its own motion. If the department reviews the proposed decision on its own motion, it will send notice of the review to all parties participating in the appeal.

c. A party appealing the proposed decision shall mail a copy of the notice of appeal to all other parties. Any party may submit to the department exceptions to and a brief in support of or in opposition to the proposed decision within 15 days after the mailing of a notice of appeal or of a request for review. The submitting party shall mail copies of any exceptions or brief it files to all other parties to the proceeding. The director shall notify the parties if the department deems oral arguments by the parties to be appropriate. The director will issue a final decision not less than 30 days after the notice of appeal is filed.

d. The department shall review the proposed decision based on the record and issues raised in the hearing. The department shall not take any further evidence and shall not consider issues that were not raised at the hearing. The issues for review shall be specified in the party's notice of appeal. The party appealing the proposed decision shall be responsible for transcribing any tape of the proceeding before the presiding officer and filing the transcript as part of the record for review. The party appealing the proposed decision shall bear the cost of the transcription regardless of the method used to transcribe the tape.

e. Each party shall have the opportunity to file exceptions to the proposed decision and present briefs in support of or in opposition to the proposed decision. The department may set a deadline for submission of briefs. When the department consents, oral arguments may be presented. A party wishing to make an oral argument shall specifically request it. The department in its sole discretion may schedule oral arguments regarding the appeal. The department shall notify all parties in advance of the scheduled time and place for oral arguments.

f. The director shall issue a final decision by the department. The decision shall be in writing and shall conform to the requirements of Iowa Code chapter 17A.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

These rules are intended to implement Iowa Code sections 8A.201 to 8A.203, 8A.206, 8A.207, 8A.301, 8A.302, 8A.311 as amended by 2005 Iowa Acts, House File 814, 8A.341 to 8A.344, 73.1 and 73.2.

[Filed 10/7/03, Notice 8/20/03—published 10/29/03, effective 12/3/03]

[Filed 7/30/04, Notice 6/9/04—published 8/18/04, effective 9/22/04]
[Filed emergency 6/15/05—published 7/6/05, effective 7/1/05]
[Filed 8/24/05, Notice 7/6/05—published 9/14/05, effective 10/19/05]
[Filed 11/30/05, Notice 10/26/05—published 12/21/05, effective 1/25/06]
[Filed 12/29/05, Notice 11/23/05—published 1/18/06, effective 2/22/06]
[Filed 7/14/06, Notice 6/7/06—published 8/2/06, effective 9/6/06]
[Filed 8/22/07, Notice 7/18/07—published 9/12/07, effective 10/17/07]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed ARC 0952C (Notice ARC 0812C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]
[Filed ARC 1485C (Notice ARC 1302C, IAB 2/5/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 118
PURCHASING STANDARDS FOR SERVICE CONTRACTS

[Prior to 9/17/03, see 401—Chapter 12]

[Prior to 8/21/13, see 11—Chapter 106]

11—118.1(8A) Authority and scope. This chapter is adopted for the purpose of establishing a system of uniform standards for purchasing services in state government. The department of administrative services has adopted these uniform standards in cooperation with other state agencies.

The rules address when state agencies must use competitive selection to purchase services and when it is acceptable to use a sole source or emergency procurement instead of a competitive selection process. The rules provide a mechanism that allows state agencies to use an informal competitive process for purchases of services when the estimated annual value of the contract is less than \$50,000 and when the estimated value of the multiyear contract in the aggregate, including renewals, is less than \$150,000. The rules also include guidance to state agencies about additional requirements and procedures they should follow when purchasing services.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.2(8A) Applicability. This chapter shall apply to all state agencies purchasing services unless otherwise provided by law.

118.2(1) When a state agency that is also a “participating agency” as defined by rule 11—117.2(8A) intends to procure “information technology services” as defined by rule 11—117.2(8A), the provisions of rule 11—117.10(8A) shall also apply to procurement of the services.

118.2(2) When a state agency that is subject to the applicability requirements of rule 11—117.1(8A) intends to procure “services of general use” as defined by rule 11—117.2(8A), the provisions of 11—Chapter 117 shall apply to the procurement.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.3(8A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code Supplement section 7E.5. However, “agency” or “state agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly, or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

“Competitive selection” means a formal or informal process engaged in by a state agency to compare provider qualifications, terms, conditions, and prices of equal or similar services in order to meet the objective of purchasing services based on quality, performance, price, or any combination thereof. During a competitive selection process, a state agency may weigh the relevant selection criteria in whatever fashion it believes will enable it to select the service provider that submits the best proposal. The lowest priced proposal is not necessarily the best proposal.

“Duration” means the specific length of a service contract.

“Emergency” includes, but is not limited to, a condition:

1. That threatens public health, welfare or safety; or
2. In which there is a need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement; or
3. In which the state agency must act to preserve critical services or programs or in which the need is a result of events or circumstances not reasonably foreseeable.

“Emergency procurement” means an acquisition of a service or services resulting from an emergency need.

“Formal competition” means a competitive selection process that employs a request for proposal or other competitive selection process authorized by applicable law resulting in a service contract.

“Informal competition” means a streamlined competitive selection process in which a state agency makes an effort to contact at least three prospective service providers identified by the purchasing state agency as qualified to perform the work described in the scope of work to provide bids or proposals to provide the services the state agency is seeking.

“Intergovernmental agreement” means an agreement for services between a state agency and any other governmental entity whether federal, state, or local and any department, division, unit or subdivision thereof.

“Private agency” or *“private agencies”* means an individual or any form of business organization authorized under the laws of this or any other state or under the laws of any foreign jurisdiction.

“Selection documents” means documents prepared for a competitive selection by a state agency to purchase services. Selection documents may include requests for proposal, invitations to bid, invitations to bid with best value considerations, invitations to qualify, requests for strategy, auctions, reverse auctions, negotiated selection, or any other type of document a state agency is authorized to use that is designed to advise service providers that a state agency is interested in procuring services for state government.

“Service” or *“services”* means work performed for a state agency or for its clients by a service provider and includes, but is not limited to:

1. Professional or technical expertise provided by a consultant, advisor or other technical or service provider to accomplish a specific study, review, project, task, or other work as described in the scope of work. By way of example and not by limitation, these services may include the following: accounting services; aerial surveys; aerial mapping and seeding; appraisal services; land surveying services; construction manager services; analysis and assessment of processes, programs, fiscal impact, compliance, systems and the like; auditing services; communications services; services of peer reviewers, attorneys, financial advisors, and expert witnesses for litigation; architectural services; information technology consulting services; services of investment advisors and managers; marketing services; policy development and recommendations; program development; public involvement services and strategies; research services; scientific and related technical services; software development and system design; and services of underwriters, physicians, pharmacists, engineers, and architects; or

2. Services provided by a vendor to accomplish routine functions. These services contribute to the day-to-day operations of state government. By way of example and not by limitation, these services may include the following: ambulance service; charter service; boiler testing; bookkeeping service; building alarm systems service and repair; commercial laundry service; communications systems installation, servicing and repair; court reporting and transcription services; engraving service; equipment or machine installation, preventive maintenance, inspection, calibration and repair; heating, ventilation and air conditioning (HVAC) system maintenance service; janitorial service; painting; pest and weed control service; grounds maintenance, mowing, parking lot sweeping and snow removal service; towing service; translation services; and travel service.

“Service contract” means a contract for a service or services when the predominant factor, thrust, and purpose of the contract as reasonably stated is for the provision or rendering of services. When there is a contract for both goods and services and the predominant factor, thrust, and purpose of the contract as reasonably stated is for the provision or rendering of services with goods incidentally involved, a service contract exists and these rules apply. “Service contract” includes grants when the predominant factor, thrust, and purpose of the contract formalizing the grant is for the provision or rendering of services.

“Service provider” means a vendor that enters into a service contract with a state agency.

“Sole source procurement” means a purchase of services in which the state agency selects a service provider without engaging in a competitive selection process.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.4(8A) Intergovernmental agreements. In the event another governmental entity has resources available to supply a service sought by a state agency, the state agency may enter into an

intergovernmental agreement with the other governmental entity and is not required to use competitive selection.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.5(8A) Use of competitive selection. State agencies shall use competitive selection to acquire services from private entities when the estimated annual value of the service contract is equal to or greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including any renewals, is equal to or greater than \$15,000 unless there is adequate justification for a sole source or emergency procurement pursuant to rule 11—118.7(8A) or 11—118.8(8A) or another provision of law.

118.5(1) When the estimated annual value of the service contract is equal to or greater than \$50,000 or the estimated value of the multiyear service contract in the aggregate, including any renewals, exceeds \$150,000, a state agency shall use a formal competitive selection process to procure the service.

118.5(2) When the estimated annual value of the service contract is equal to or greater than \$5,000 but less than \$50,000 and the estimated value of the multiyear service contract in the aggregate, including any renewals, does not exceed \$150,000, a state agency, in its sole discretion, shall use either a formal or informal competitive selection process to engage a service provider.

118.5(3) The requirement to use competitive selection to select a service provider when the estimated annual value of the service contract is equal to or greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is equal to or greater than \$15,000 applies even when the state agency purchases services from a private entity and designates the contract it enters into with the private entity as a 28E agreement.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.6 Reserved.

11—118.7(8A) Sole source procurements.

118.7(1) *When justified.* A sole source procurement shall be avoided unless clearly necessary and justifiable. A state agency may purchase services using a sole source procurement under the following circumstances:

a. A state agency determines that one service provider is the only one qualified or eligible or is quite obviously the most qualified or eligible to perform the service; or

b. The services being purchased involve work that is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity to the project, or ownership of intellectual property rights, could most satisfactorily provide the service; or

c. A state agency is hiring a service provider to provide peer review services for a professional licensing board pursuant to Iowa Code chapter 272C; or

d. A state agency is hiring the services of experts, advisors, counsel or consultants to assist in any type of legal proceeding including but not limited to testifying or assisting in the preparation of quasi-judicial or judicial proceedings; or

e. The federal government or other provider of funds for the services being purchased (other than the state of Iowa) has imposed clear and specific restrictions on the state agency's use of the funds in a way that restricts the state agency to only one service provider; or

f. Applicable law requires, provides for, or permits use of a sole source procurement.

118.7(2) *Special procedures required for sole source procurements.*

a. When the annual value of the service contract exceeds \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is equal to or greater than \$15,000, the director of a state agency or designee shall sign the sole source contract or the amendment. In the absence of the director of a state agency or designee, the sole source contract shall be signed only by the DAS director or designee. Use of sole source procurement does not relieve a state agency from negotiating a fair and reasonable price and thoroughly documenting the procurement action.

b. When the annual value of the service contract exceeds \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is equal to or greater than \$15,000, a state agency shall be required to complete a sole source justification form. The director of the state

agency or designee shall sign the sole source justification form. In the absence of the director of the state agency or designee, the sole source justification form shall be signed only by the DAS director or designee. The claim for the first payment on a contract requires a copy of the signed original contract, a copy of the precontract questionnaire, a copy of the sole source justification form, and an original invoice or original claimant signature.

c. The contract for the sole source procurement shall comply with 11—119.4(8,8A), uniform terms and conditions for service contracts, or 11—119.5(8,8A), special terms and conditions.
[ARC 0952C, IAB 8/21/13, effective 9/25/13; ARC 1485C, IAB 6/11/14, effective 7/16/14]

11—118.8(8A) Emergency procurements.

118.8(1) *When justified.* An emergency procurement shall be limited in scope and duration to meet the emergency. When considering the scope and duration of an emergency procurement, the state agency may consider price and availability of the service procured so that the state agency obtains the best value for the funds spent under the circumstances. State agencies should attempt to acquire services with as much competition as practicable under the circumstances.

118.8(2) *Special procedures required for emergency procurements.*

a. The head of a state agency shall sign all emergency contracts and amendments regardless of value or length of term. If the head of a state agency is not available, a designee may sign an emergency contract or amendment. Use of an emergency procurement does not relieve a state agency from negotiating a fair and reasonable price and documenting the procurement action.

b. When the value of the service contract exceeds \$5,000, a state agency shall be required to complete an emergency justification form. The director of the state agency or the director's designee shall sign the emergency justification form.

c. If an emergency procurement results in the extension of an existing contract that contains performance criteria, the contract extension shall comply with 11—119.4(8,8A), uniform terms and conditions for service contracts, or 11—119.5(8,8A), special terms and conditions.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.9(8A) Informal competitive procedures.

118.9(1) When utilizing an informal competition as defined in rule 11—118.3(8A), the state agency may contact the prospective service providers in person, by telephone, fax, E-mail or letter. When the state agency is not able to locate three prospective service providers, the state agency must justify contacting fewer than three service providers. The justification shall be included in the contract file.

118.9(2) A state agency may send copies of the scope of work to service providers that it has identified as qualified to perform the work described in the scope of work.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.10 Reserved.

11—118.11(8A) Duration of service contracts.

118.11(1) Each service contract signed by a state agency shall have a specific starting and ending date.

118.11(2) State agencies shall not sign self-renewing service contracts that do not have a specific ending date.

118.11(3) A service contract should be competitively selected on a regular basis so that a state agency obtains the best value for the funds spent, avoids inefficiencies, waste or duplication and may take advantage of new innovations, ideas and technology. A service contract, including all optional renewals, shall not exceed a term of six years unless the state agency obtains a waiver of this provision pursuant to rule 11—118.16(8A).

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.12(8A) Additional procedures or requirements.

118.12(1) State agencies, whether utilizing informal or formal competition, shall provide a notice of each procurement for services to the targeted small business Web page located at the Iowa department of economic development's Web site in conformance with Iowa Code section 73.16(2).

118.12(2) Except in an emergency procurement, services shall not be performed pursuant to a service contract for a state agency until all parties to the contract have signed the contract.

118.12(3) At the conclusion of the competitive selection process, all service providers shall be required to sign a service contract.

118.12(4) Each state agency shall maintain a contracting file for each service contract signed by the state agency.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.13 and 118.14 Reserved.

11—118.15(8A) Exclusions and limitations.

118.15(1) These rules do not apply to contracts for both goods and services when the predominant factor, thrust, and purpose of the contract as reasonably stated is for the purchase of goods with service incidentally involved. However, in no event shall state agencies designate contracts as contracts for goods to avoid the application of these rules.

118.15(2) Nothing in this chapter is intended to supplant or supersede the requirements adopted by the department of administrative services relating to the processing of claims. State agencies entering into personal services contracts should refer to procedure 240.102, Miscellaneous—Services Contracting, of the department of administrative services, state accounting enterprise policy and procedure manual.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.16(8A) Waiver procedure.

118.16(1) For the purpose of this chapter, a “waiver or variance” means an action by the director of the department of administrative services that suspends, in whole or in part, the requirements or provisions of a rule in this chapter as applied to a state agency when the state agency establishes good cause for a waiver or variance of the rule. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

118.16(2) Requests for waivers. A state agency seeking a waiver shall submit a written request for a waiver to the director. The written request shall identify the rule for which the state agency seeks a waiver, the contract or class of contracts for which the state agency seeks a waiver, and the reasons that the state agency believes justify granting the waiver.

118.16(3) Criteria for waiver. In response to a request for a waiver submitted by a state agency, the director may issue an order waiving in whole or in part the requirements of a rule in this chapter if the director finds that the state agency has established good cause for waiving the requirements of the rule. “Good cause” includes, but is not limited to, a showing that a requirement or provision of a rule should be waived because the requirement or provision would likely result in an unintended, undesirable, or adverse consequence or outcome. An example of good cause for a waiver is when a contract duration period of longer than six years is more economically feasible than a six-year contract in light of the service being purchased by the state agency.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

11—118.17(8A) Effective date. This chapter shall apply to service contracts with a starting date on or after October 1, 2002.

[ARC 0952C, IAB 8/21/13, effective 9/25/13]

These rules are intended to implement Iowa Code Supplement sections 8A.101, 8A.104, 8A.301, 8A.302, and 8A.311.

[Filed 8/2/02, Notice 4/3/02—published 8/21/02, effective 10/1/02]

[Filed emergency 8/29/03—published 9/17/03, effective 9/2/03]

[Filed 6/2/04, Notice 4/28/04—published 6/23/04, effective 7/28/04]

[Filed 10/22/04, Notice 9/15/04—published 11/10/04, effective 12/15/04]

[Filed ARC 0952C (Notice ARC 0812C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1485C (Notice ARC 1302C, IAB 2/5/14), IAB 6/11/14, effective 7/16/14]

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];
renamed Economic Development Authority by 2011 Iowa Acts, House File 590]

PART I

DEPARTMENT STRUCTURE

CHAPTER 1

ORGANIZATION

- | | |
|---------|--------------------------------------|
| 1.1(15) | History and mission |
| 1.2(15) | Definitions |
| 1.3(15) | Economic development authority board |
| 1.4(15) | Authority structure |
| 1.5(15) | Information |

CHAPTERS 2 and 3

Reserved

PART II

WORKFORCE DEVELOPMENT COORDINATION

CHAPTER 4

WORKFORCE DEVELOPMENT ACCOUNTABILITY SYSTEM

- | | |
|---------|----------------------------|
| 4.1(15) | Purpose |
| 4.2(15) | Compilation of information |

CHAPTER 5

IOWA INDUSTRIAL NEW JOBS TRAINING PROGRAM

- | | |
|----------------------|--|
| 5.1(15,260E) | Authority |
| 5.2(15,260E) | Purpose |
| 5.3(15,260E) | Definitions |
| 5.4(15,260E) | Agreements |
| 5.5(15,260E) | Resolution on incremental property tax |
| 5.6(15,260E) | New jobs withholding credit |
| 5.7(15,260E) | Notice of intent to issue certificates |
| 5.8(15,260E) | Standby property tax levy |
| 5.9(15,260E) | Reporting |
| 5.10(15,260E) | Monitoring |
| 5.11(15,260E) | State administration |
| 5.12(15,260E) | Coordination with communities |
| 5.13(15,76GA,SF2351) | Supplemental 1½ percent withholding |

CHAPTER 6

Reserved

CHAPTER 7

IOWA JOBS TRAINING PROGRAM

- | | |
|-----------|--|
| 7.1(260F) | Authority |
| 7.2(260F) | Purpose |
| 7.3(260F) | Definitions |
| 7.4(260F) | Program funding |
| 7.5(260F) | Funding for projects which include one business |
| 7.6(260F) | Funding for projects which include multiple businesses |
| 7.7(260F) | Funding for high technology apprenticeship programs |
| 7.8(260F) | Matching funds requirement |

7.9(260F)	Use of program funds
7.10(260F)	Use of 260F earned interest
7.11(260F)	Application fee
7.12(260F)	Separate account
7.13(260F)	Eligible business
7.14(260F)	Ineligible business
7.15(260F)	Eligible employee
7.16(260F)	Ineligible employee
7.17(260F)	Entrepreneurial training
7.18(260F)	Agreement of intent
7.19(260F)	Project commencement date
7.20(260F)	Application process
7.21(260F)	Application scoring criteria
7.22(260F)	Training contract
7.23(260F)	Special requirements for community college consortium projects
7.24(260F)	Special requirements for community college-sponsored business network projects
7.25(260F)	Special requirements for department-sponsored business network projects
7.26(260F)	Special requirements for community college-sponsored high technology apprenticeship projects
7.27(260F)	Special requirements for department-sponsored high technology apprenticeship projects
7.28(81GA, HF868, HF809)	Special requirements for job retention program projects
7.29(81GA, HF868, HF809)	Special requirements for projects funded through the grow Iowa values fund
7.30(260F)	Events of default
7.31(260F)	Options and procedures on default
7.32(260F)	Remedies upon default
7.33(260F)	Return of unused funds
7.34(260F)	Open records
7.35(260F)	Required forms

CHAPTER 8

WORKFORCE DEVELOPMENT FUND

8.1(15,76GA, ch1180)	Purpose
8.2(15,76GA, ch1180)	Definitions
8.3(15,76GA, ch1180)	Workforce development fund account
8.4(15,76GA, ch1180)	Workforce development fund allocation
8.5(15,76GA, ch1180)	Workforce development fund reporting
8.6(15,76GA, ch1180)	Training and retraining programs for targeted industries
8.7(15,76GA, ch1180)	Projects under Iowa Code chapter 260F
8.8(15,76GA, chs1180, 1219)	Apprenticeship programs under Iowa Code section 260C.44 (including new or statewide building trades apprenticeship programs)
8.9(15,76GA, chs1180, 1219)	Innovative skill development activities
8.10(15,76GA, ch1180)	Negotiation and award
8.11(15,76GA, ch1180)	Administration
8.12(15,76GA, ch1180)	Training materials and equipment
8.13(15,76GA, ch1180)	Redistribution of funds

CHAPTER 9

WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

9.1(15G, 260C)	Purpose
9.2(15G, 260C)	Definitions

9.3(15G,260C)	Funds allocation
9.4(15G,260C)	Community college workforce and economic development plan and progress report
9.5(15G,260C)	Use of funds
9.6(15G,260C)	Approval of projects
9.7(15G,260C)	Community college workforce and economic development plan
9.8(15G,260C)	Reporting
9.9(15G,260C)	Annual progress report approval
9.10(15G,260C)	Options upon default or noncompliance

CHAPTER 10

Reserved

CHAPTER 11

CERTIFIED SCHOOL TO CAREER PROGRAM

11.1(15)	Purpose
11.2(15)	Definitions
11.3(15)	Certified program work site agreement
11.4(15)	Payroll expenditure refund

CHAPTERS 12 to 19

Reserved

CHAPTER 20

ACCELERATED CAREER EDUCATION (ACE) PROGRAM

DIVISION I - GENERAL PROVISIONS

20.1(260G)	Purpose
20.2(260G)	Definitions
20.3(260G)	ACE program eligibility and designation
20.4(260G)	Funding allocation
20.5(260G)	Eligible and ineligible business
20.6(260G)	Program agreements
20.7(260G)	Administration
20.8(260G)	Customer tracking system
20.9(260G)	Program costs recalculation

DIVISION II - CAPITAL COSTS COMPONENT

20.10 to 20.12	Reserved
----------------	----------

DIVISION III - PROGRAM JOB CREDITS

20.13(260G)	Threshold requirements—program job credits
20.14(260G)	Job credits allocation
20.15(260G)	Determination of job credits, notice, and certification
20.16(260G)	Evaluation criteria for quality assurance—program job credits
20.17(260G)	Committed funds

DIVISION IV - ACCELERATED CAREER EDUCATION GRANTS COMPONENT

20.18(260G) ACE program serving demand occupations

DIVISION V - WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT PROGRAM OPERATING COSTS

20.19(81GA, HF868, HF809) Grow Iowa values fund assistance

PART III

COMMUNITY DEVELOPMENT DIVISION

CHAPTER 21

DIVISION RESPONSIBILITIES

21.1(15) Mission

21.2(15) Division responsibilities

CHAPTER 22

Reserved

CHAPTER 23

IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

23.1(15) Purpose

23.2(15) Definitions

23.3(15) Eligible applicants

23.4(15) Allocation of funds

23.5(15) Common requirements for funding

23.6(15) Requirements for the competitive program

23.7(15) Requirements for the economic development set-aside fund

23.8(15) Requirements for the public facilities set-aside fund

23.9(15) Requirements for the career link program

23.10(15) Requirements for the contingency fund

23.11(15) Requirements for the housing fund program

23.12(15) Interim financing program

23.13 Reserved

23.14(15) Disaster recovery fund

23.15(15) Administration of a CDBG award

23.16(15) Requirements for the downtown revitalization fund

CHAPTER 24

EMERGENCY SHELTER GRANTS PROGRAM

24.1(PL100-628) Purpose

24.2(PL100-628) Definitions

24.3(PL100-628) Eligible applicants

24.4(PL100-628) Eligible activities

24.5(PL100-628) Ineligible activities

24.6(PL100-628) Application procedures

24.7(PL100-628) Application review process

24.8(PL100-628) Matching requirement

24.9(PL100-628) Grant awards

24.10(PL100-628) Restrictions placed on grantees

24.11(PL100-628) Compliance with applicable federal and state laws and regulations

24.12(PL100-628) Administration

CHAPTER 25

HOUSING FUND

25.1(15) Purpose

25.2(15) Definitions

- 25.3(15) Eligible applicants
- 25.4(15) Eligibility and forms of assistance
- 25.5(15) Application review
- 25.6(15) Minimum application requirements
- 25.7(15) Application review criteria
- 25.8(15) Allocation of funds
- 25.9(15) Administration of awards

CHAPTER 26

VARIANCE PROCEDURES FOR TAX INCREMENT FINANCING (TIF) HOUSING PROJECTS

- 26.1(403) Goals and objectives
- 26.2(403) Definitions
- 26.3(403) Requirements for benefit to low- and moderate-income families
- 26.4(403) Ability to request a variance
- 26.5(403) Variance request procedure
- 26.6(403) Criteria for review

CHAPTER 27

NEIGHBORHOOD STABILIZATION PROGRAM

- 27.1(15) Purpose
- 27.2(15) Definitions
- 27.3(15) Program eligibility
- 27.4(15) Allocation of funding
- 27.5(15) Application procedures
- 27.6(15) Plan and application review process
- 27.7(15) Award process
- 27.8(15) Project management

CHAPTER 28

LOCAL HOUSING ASSISTANCE PROGRAM

- 28.1(15) Purpose
- 28.2(15) Definitions
- 28.3(15) Eligible applicants
- 28.4(15) Eligible activities and forms of assistance
- 28.5(15) Application procedure
- 28.6(15) Minimum application requirements
- 28.7(15) Application review criteria
- 28.8(15) Allocation of funds
- 28.9(15) Administration of awards

CHAPTER 29

HOMELESS SHELTER OPERATION GRANTS PROGRAM

- 29.1(15) Purpose
- 29.2(15) Definitions
- 29.3(15) Eligible applicants
- 29.4(15) Eligible activities
- 29.5(15) Ineligible activities
- 29.6(15) Application procedures
- 29.7(15) Application review process
- 29.8(15) Matching requirement
- 29.9(15) Grant awards

- 29.10(15) Compliance with applicable federal and state laws and regulations
 29.11(15) Administration

CHAPTER 30
 JOB OPPORTUNITIES FOR
 PERSONS WITH DISABILITIES PROGRAM

- 30.1(76GA,SF2470) Purpose
 30.2(76GA,SF2470) Definitions
 30.3(76GA,SF2470) Eligible applicant
 30.4(76GA,SF2470) Project awards
 30.5(76GA,SF2470) Eligible and ineligible use of grant funds
 30.6(76GA,SF2470) General guidelines for applications
 30.7(76GA,SF2470) Review and award process
 30.8(76GA,SF2470) Program management

CHAPTER 31
 ECONOMIC DEVELOPMENT REGION INITIATIVES

- 31.1(81GA,HF868,HF809) Purpose
 31.2(81GA,HF868,HF809) Types of assistance
 31.3(81GA,HF868,HF809) Financial assistance
 31.4(81GA,HF868,HF809) Definitions

DIVISION I
 ECONOMIC DEVELOPMENT REGION INITIATIVE—FINANCIAL ASSISTANCE

- 31.5(81GA,HF868,HF809) Uses of funds under the economic development region initiative
 31.6(81GA,HF868,HF809) Application process
 31.7(81GA,HF868,HF809) Reporting requirements

DIVISION II
 ECONOMIC ENTERPRISE AREAS

- 31.8(81GA,HF868,HF809) Description
 31.9(81GA,HF868,HF809) Funding
 31.10(81GA,HF868,HF809) Eligible use of funds
 31.11(81GA,HF868,HF809) Application process
 31.12(81GA,HF868,HF809) Reporting requirements

DIVISION III
 BUSINESS ACCELERATORS

- 31.13(81GA,HF868,HF809) Description and purpose
 31.14(81GA,HF868,HF809) Definitions
 31.15(81GA,HF868,HF809) Requirements and qualifications for business accelerator entities
 31.16(81GA,HF868,HF809) Other considerations
 31.17(81GA,HF868,HF809) Application procedures
 31.18(81GA,HF868,HF809) Reporting

DIVISION IV
 SMALL BUSINESS DEVELOPMENT CENTERS

- 31.19(81GA,HF868,HF809) Small business development center assistance

DIVISION V
 IOWA BUSINESS RESOURCE CENTERS

- 31.20(81GA,HF868,HF809) Iowa business resource centers

CHAPTER 32
 TAX CREDITS FOR ECONOMIC DEVELOPMENT REGION REVOLVING LOAN FUND

- 32.1(81GA,HF868,HF809) Purpose
 32.2(81GA,HF868,HF809) Definitions

- 32.3(81GA,HF868,HF809) Allocation of funds
- 32.4(81GA,HF868,HF809) Credit amount
- 32.5(81GA,HF868,HF809) Eligible contributions
- 32.6(81GA,HF868,HF809) Requests for tax credits

CHAPTER 33

IOWA WINE AND BEER PROMOTION GRANT PROGRAM

- 33.1(15) Purpose
- 33.2(15) Definitions
- 33.3(15) Application and review processes

CHAPTER 34

WELCOME CENTER PROGRAM

- 34.1(72GA,HF540) Purpose
- 34.2 and 34.3 Reserved
- 34.4(72GA,HF540) Pilot projects

CHAPTER 35

REGIONAL TOURISM MARKETING GRANT PROGRAM

- 35.1(82GA,SF302) Purpose
- 35.2(82GA,SF302) Definitions
- 35.3(82GA,SF302) Eligible applicants
- 35.4(82GA,SF302) Use of funds
- 35.5(82GA,SF302) Application procedures and content
- 35.6(82GA,SF302) Application review and approval procedures
- 35.7(82GA,SF302) Funding of grants; contracting

CHAPTER 36

FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

- 36.1(15) Purpose
- 36.2(15) Definitions
- 36.3(15) Request for registration of a film, television, or video project
- 36.4(15) IDED list of registered film, television, or video projects
- 36.5(15) Contract administration
- 36.6(15) Benefits available
- 36.7(15) Qualified expenditure tax credit
- 36.8(15) Qualified investment tax credit
- 36.9(15) Reduction of gross income due to payments received from qualified expenditures in registered projects

CHAPTER 37

CITY DEVELOPMENT BOARD

- 37.1(368) Expenses, annual report and rules
- 37.2(17A) Forms

CHAPTER 38

REGIONAL SPORTS AUTHORITY DISTRICTS

- 38.1(15E) Definitions
- 38.2(15E) Program description
- 38.3(15E) Program eligibility and application requirements
- 38.4(15E) Application scoring and certification of districts
- 38.5(15E) Contract administration
- 38.6(15E) Expenses, records, and reimbursements

CHAPTER 39
IOWA MAIN STREET PROGRAM

39.1(15)	Purpose
39.2(15)	Definitions
39.3(15)	Program administration
39.4(15)	Eligible applicants
39.5	Reserved
39.6(15)	Selection
39.7(15)	Selection criteria
39.8	Reserved
39.9(15)	Performance reviews
39.10(15)	Noncompliance
39.11(15)	Forms

CHAPTER 40
IOWA JOBS MAIN STREET PROGRAM

40.1(83GA,SF2389)	Authority
40.2(83GA,SF2389)	Purpose
40.3(83GA,SF2389)	Definitions
40.4(83GA,SF2389)	Highest-priority list
40.5(83GA,SF2389)	Funding
40.6(83GA,SF2389)	Financial management
40.7(83GA,SF2389)	Reports
40.8(83GA,SF2389)	Signs
40.9(83GA,SF2389)	Noncompliance
40.10(83GA,SF2389)	Great places consideration

CHAPTER 41
COMMUNITY DEVELOPMENT FUND

41.1(79GA,HF718)	Purpose
41.2(79GA,HF718)	Program eligibility
41.3(79GA,HF718)	General policies for applications
41.4(79GA,HF718)	Application procedures
41.5(79GA,HF718)	Application contents
41.6(79GA,HF718)	Review process
41.7(79GA,HF718)	Award process
41.8(79GA,HF718)	Project management
41.9(79GA,HF718)	Performance reviews

CHAPTER 42
IOWA TOURISM GRANT PROGRAM

42.1(15)	Definitions
42.2(15)	Program description
42.3(15)	Program eligibility and application requirements
42.4(15)	Application scoring and approval process
42.5(15)	Contract administration
42.6(15)	Expenses, records, and reimbursements

CHAPTER 43
Reserved

CHAPTER 44
COG ASSISTANCE

44.1(28H)	Purpose
44.2(28H)	Definitions
44.3(28H)	Eligibility
44.4(28H)	Eligible activities
44.5(28H)	Application procedure
44.6(28H)	Grant awards
44.7(28H)	Funding
44.8(28H)	Financial management standards
44.9(28H)	Record keeping and retention
44.10(28H)	Progress reports
44.11(28H)	Noncompliance
44.12(28H)	Grant closeouts
44.13(28H)	Compliance with state laws and regulations

CHAPTER 45
Reserved

CHAPTER 46
ENDOW IOWA GRANTS PROGRAM

46.1(81GA, HF868)	Purpose
46.2(81GA, HF868)	Definitions
46.3(81GA, HF868)	Program procedures
46.4(81GA, HF868)	Eligible applicants
46.5(81GA, HF868)	Application and review criteria
46.6(81GA, HF868)	Reporting requirements

CHAPTER 47
ENDOW IOWA TAX CREDITS

47.1(15E)	Purpose
47.2(15E)	Definitions
47.3(15E)	Authorization of tax credits to taxpayers
47.4(15E)	Distribution process and review criteria
47.5(15E)	Reporting requirements

CHAPTERS 48 and 49
Reserved

PART IV
BUSINESS DEVELOPMENT DIVISION

CHAPTER 50
DIVISION RESPONSIBILITIES

50.1(15)	Mission
50.2(15)	Division responsibilities

CHAPTER 51
SELF-EMPLOYMENT LOAN PROGRAM

51.1(15)	Transition
----------	------------

CHAPTER 52
Reserved

CHAPTER 53

COMMUNITY ECONOMIC BETTERMENT ACCOUNT (CEBA) PROGRAM

- 53.1(15) Purpose and administrative procedures
- 53.2(15) Definitions
- 53.3 Reserved
- 53.4(15) Eligible applicants
- 53.5(15) Provision of assistance
- 53.6(15) Application for assistance
- 53.7(15) Selection criteria
- 53.8(15) Small business gap financing
- 53.9(15) New business opportunities and new product development components
- 53.10(15) Venture project components
- 53.11(15) Modernization project component
- 53.12(15) Comprehensive management assistance and entrepreneurial development
- 53.13 to 53.17 Reserved
- 53.18(15,83GA,SF344) Applicability of CEBA program after July 1, 2009

CHAPTER 54

IOWA TARGETED SMALL BUSINESS PROCUREMENT PROGRAM

- 54.1(73) Purpose
- 54.2(73) Definitions
- 54.3(73) Preliminary procedures
- 54.4(73) Identification of targeted small businesses
- 54.5(73) IDED administration
- 54.6(73) Certification
- 54.7(73) Request for review of certification denial
- 54.8(73) Certification review board
- 54.9(73) Decertification
- 54.10(73) Notice of solicitation for bids
- 54.11 Reserved
- 54.12(73) Determination of ability to perform
- 54.13(73) Other procurement procedures
- 54.14(73) Reporting requirements
- 54.15(73) Maintenance of records

CHAPTER 55

TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM

- 55.1(15) Targeted small business financial assistance program (TSBFAP)
- 55.2(15) Definitions
- 55.3(15) Eligibility requirements
- 55.4(15) Loan and grant program
- 55.5(15) Loan guarantee program
- 55.6(15) Award agreement
- 55.7(15) Monitoring and reporting for loan, grant, and loan guarantee programs

CHAPTER 56

EMPLOYEE STOCK OWNERSHIP PLAN (ESOP) FORMATION ASSISTANCE

- 56.1(85GA,HF648) Purpose
- 56.2(85GA,HF648) Definitions
- 56.3(85GA,HF648) Program description
- 56.4(85GA,HF648) Program eligibility, application scoring, and funding decisions
- 56.5(85GA,HF648) Contract required

CHAPTER 57
VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES
FINANCIAL ASSISTANCE PROGRAM (VAAPFAP)

- 57.1(15E) Purpose and administrative procedures
- 57.2(15E) Definitions
- 57.3(15E) General eligibility
- 57.4(15E) Program components and eligibility requirements
- 57.5(15E) Ineligible projects
- 57.6(15E) Awards
- 57.7(15E) Application procedure
- 57.8(15E) Review process
- 57.9 Reserved
- 57.10(15E) Evaluation and rating criteria
- 57.11 to 57.15 Reserved
- 57.16(15E,83GA,SF344) Applicability of VAAPFAP program after July 1, 2009

CHAPTER 58
NEW JOBS AND INCOME PROGRAM

- 58.1(15) Purpose
- 58.2(15) Definitions
- 58.3(15) Agreement prerequisites
- 58.4(15) Program benefits
- 58.5(15) Limitation on incentives
- 58.6(15) Application
- 58.7(15) Eligibility requirements
- 58.8(15) Ineligibility
- 58.9(15) Application
- 58.10(15) Department and board action
- 58.11(15) Agreement
- 58.12 Reserved
- 58.13(15) Compliance monitoring; notice of noncompliance and penalties
- 58.14(15) Repayment
- 58.15(15) Amendments
- 58.16(81GA,HF868) Applicability of new jobs and income program after July 1, 2005

CHAPTER 59
ENTERPRISE ZONE (EZ) PROGRAM

- 59.1(15E) Purpose and administrative procedures
- 59.2(15E) Definitions
- 59.3(15E) Enterprise zone certification
- 59.4(15E) Enterprise zone commission
- 59.5(15E) Eligibility and negotiations
- 59.6(15E) Eligible business
- 59.7 Reserved
- 59.8(15E) Eligible housing business
- 59.9 Reserved
- 59.10(15E) Commission review of businesses' applications
- 59.11(15E) Other commission responsibilities
- 59.12(15E) Department action on eligible applications

CHAPTER 60
ENTREPRENEURIAL VENTURES
ASSISTANCE (EVA) PROGRAM

- 60.1(15) Purpose and administrative procedures
- 60.2(15) Definitions
- 60.3(15) Eligibility requirements
- 60.4(15) Financial assistance
- 60.5(15) Technical assistance
- 60.6(15) Application process
- 60.7(15) Review criteria
- 60.8 and 60.9 Reserved
- 60.10(15,83GA,SF344) Applicability of EVA program after July 1, 2009

CHAPTER 61
PHYSICAL INFRASTRUCTURE ASSISTANCE PROGRAM (PIAP)

- 61.1(15E) Purpose and administrative procedures
- 61.2(15E) Eligible activities
- 61.3(15E) Eligibility requirements
- 61.4(15E) Application procedures
- 61.5(15E) Application review criteria, performance measures
- 61.6 Reserved
- 61.7(15E) Forms of assistance available; award amount
- 61.8 Reserved
- 61.9(15E) Applicability of PIAP program after July 1, 2009

CHAPTER 62
COGENERATION PILOT PROGRAM

- 62.1(80GA,HF391) Purpose
- 62.2(80GA,HF391) Eligible activities
- 62.3(80GA,HF391) Eligibility requirements
- 62.4(80GA,HF391) Application procedures
- 62.5(80GA,HF391) Application review
- 62.6(80GA,HF391) Award process
- 62.7(80GA,HF391) Annual progress report

CHAPTER 63
UNIVERSITY-BASED RESEARCH UTILIZATION PROGRAM

- 63.1(80GA,HF692,HF683) Purpose
- 63.2(80GA,HF692,HF683) Definitions
- 63.3(80GA,HF692,HF683) Business eligibility
- 63.4(80GA,HF692,HF683) Program benefits
- 63.5(80GA,HF692,HF683) Funding appropriation to the regents university
- 63.6(80GA,HF692,HF683) Business application
- 63.7(80GA,HF692,HF683) Application and award process
- 63.8(80GA,HF692,HF683) Program administration

CHAPTER 64
NEW CAPITAL INVESTMENT PROGRAM

- 64.1(80GA,HF677) Purpose
- 64.2(80GA,HF677) Definitions
- 64.3(80GA,HF677) Applying for benefits
- 64.4(80GA,HF677) Benefits
- 64.5(80GA,HF677) Agreement, compliance, and repayment provisions

- 64.6(80GA, HF677) Amendments
- 64.7(80GA, HF677) Other benefits
- 64.8(81GA, HF868) Applicability of new capital investment program after July 1, 2005

CHAPTER 65

BROWNFIELD AND GRAYFIELD REDEVELOPMENT

- 65.1(15) Purpose
- 65.2(15) Definitions
- 65.3(15) Eligible applicants
- 65.4(15) Eligible forms of assistance and limitations
- 65.5(15) Repayment to economic development authority
- 65.6(15) Application and award procedures
- 65.7(15) Application
- 65.8(15) Application forms
- 65.9(15) Application review criteria
- 65.10(15) Administration of awards
- 65.11(15) Redevelopment tax credit
- 65.12(15) Review, approval, and repayment requirements of redevelopment tax credit

CHAPTER 66

ASSISTIVE DEVICE TAX CREDIT

- 66.1(78GA, ch1194) Purpose
- 66.2(78GA, ch1194) Definitions
- 66.3(78GA, ch1194) Eligibility criteria
- 66.4(78GA, ch1194) Application process
- 66.5(78GA, ch1194) Review, decision and award process
- 66.6(78GA, ch1194) Certification
- 66.7(78GA, ch1194) Monitoring and misuse of funds
- 66.8(78GA, ch1194) Tax credit

CHAPTER 67

LIFE SCIENCE ENTERPRISES

- 67.1(78GA, ch1197) Purpose
- 67.2(78GA, ch1197) Definitions
- 67.3(78GA, ch1197) Filing of notice of intent
- 67.4(78GA, ch1197) Filing of life science enterprise plan
- 67.5(78GA, ch1197) Review by board
- 67.6(78GA, ch1197) Life science enterprise land ownership exemption
- 67.7(78GA, ch1197) Amendment of plan
- 67.8(78GA, ch1197) Successor enterprise
- 67.9(78GA, ch1197) Filing

CHAPTER 68

HIGH QUALITY JOBS PROGRAM (HQJP)

- 68.1(15) Administrative procedures and definitions
- 68.2(15) Eligibility requirements
- 68.3(15) Application process and review
- 68.4(15) Tax incentives
- 68.5(15) Project completion assistance

CHAPTER 69

LOAN AND CREDIT GUARANTEE PROGRAM

- 69.1(15E,81GA,HF868) Purpose
- 69.2(15E,81GA,HF868) Definitions
- 69.3(15E,81GA,HF868) Application and review process
- 69.4(15E,81GA,HF868) Application approval or rejection
- 69.5(15E,81GA,HF868) Terms and conditions
- 69.6(15E,81GA,HF868) Administrative costs and program fees
- 69.7(15E,81GA,HF868) Administration of guarantees
- 69.8(15E,83GA,SF344) Applicability of LCG program after July 1, 2009

CHAPTER 70

PORT AUTHORITY GRANT PROGRAM

- 70.1(81GA,HF2782) Purpose
- 70.2(81GA,HF2782) Definitions
- 70.3(81GA,HF2782) Program procedures
- 70.4(81GA,HF2782) Eligibility
- 70.5(81GA,HF2782) Application and review criteria
- 70.6(81GA,HF2782) Monitoring, reporting and follow-up

CHAPTER 71

TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

- 71.1(403) Definitions
- 71.2(403) Eligibility requirements
- 71.3(403) Pilot project city application process and review
- 71.4(403) Withholding agreements
- 71.5(403) Project approval
- 71.6(403) Reporting requirements
- 71.7(403) Applicability

CHAPTER 72

IOWA EXPORT TRADE ASSISTANCE PROGRAM

- 72.1(78GA,ch197) Purpose
- 72.2(78GA,ch197) Definitions
- 72.3(78GA,ch197) Eligible applicants
- 72.4(78GA,ch197) Eligible reimbursements
- 72.5(78GA,ch197) Applications for assistance
- 72.6(78GA,ch197) Selection process
- 72.7(78GA,ch197) Limitations
- 72.8(78GA,ch197) Forms

CHAPTER 73

Reserved

CHAPTER 74

GROW IOWA VALUES FINANCIAL ASSISTANCE PROGRAM

- 74.1(83GA,SF344) Purpose and administrative procedures
- 74.2(83GA,SF344) 130 percent wage component
- 74.3(83GA,SF344) 100 percent wage component
- 74.4(83GA,SF344) Entrepreneurial component
- 74.5(83GA,SF344) Infrastructure component
- 74.6(83GA,SF344) Value-added agriculture component

- 74.7(83GA,SF344) Disaster recovery component
 74.8(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTER 75
 OPPORTUNITIES AND THREATS PROGRAM

- 75.1(83GA,SF344) Purpose
 75.2(83GA,SF344) Administrative procedures
 75.3(83GA,SF344) Eligible applicants
 75.4(83GA,SF344) Review criteria
 75.5(83GA,SF344) Award criteria
 75.6(15) Applicability of the opportunities and threats program on or after July 1, 2012

CHAPTER 76
 AGGREGATE TAX CREDIT LIMIT FOR
 CERTAIN ECONOMIC DEVELOPMENT PROGRAMS

- 76.1(83GA,SF483) Authority
 76.2(83GA,SF483) Purpose
 76.3(83GA,SF483) Definitions
 76.4(83GA,SF483) Amount of the tax credit cap
 76.5(83GA,SF483) Programs subject to the cap
 76.6(83GA,SF483) Allocating the tax credit cap
 76.7(83GA,SF483) Exceeding the cap
 76.8(83GA,SF483) Reporting to the department of revenue

CHAPTER 77
 SITE DEVELOPMENT PROGRAM

DIVISION I
 GENERAL PROVISIONS

- 77.1(15E) Purposes
 77.2(15E) Authority
 77.3(15E) Definitions
 77.4 to 77.10 Reserved

DIVISION II
 CERTIFICATE OF READINESS

- 77.11(15E) Eligibility
 77.12(15E) Application; review; approval
 77.13(15E) Evaluation criteria
 77.14(15E) Certificate of readiness
 77.15 to 77.20 Reserved

DIVISION III
 CONSULTATION

- 77.21(15E) Consultation

CHAPTER 78
 SMALL BUSINESS DISASTER RECOVERY FINANCIAL ASSISTANCE PROGRAM

DIVISION I
 2008 NATURAL DISASTER SMALL BUSINESS DISASTER RECOVERY
 FINANCIAL ASSISTANCE PROGRAM

- 78.1(15) Purpose
 78.2(15) Definitions
 78.3(15) Distribution of funds to administrative entities
 78.4(15) Eligible business

78.5(15)	Eligible program activities; maximum amount of assistance
78.6(15)	Allowable types of assistance to eligible businesses
78.7(15)	Program administration and reporting
78.8 to 78.10	Reserved

DIVISION II

2010 IOWANS HELPING IOWANS BUSINESS ASSISTANCE PROGRAM

78.11(15)	Purpose
78.12(15)	Definitions
78.13(15)	Eligible business
78.14(15)	Eligible program activities; maximum amount of assistance
78.15(15)	Distribution of funds; application
78.16(15)	Form of assistance available to eligible businesses
78.17(15)	Grants to administrative entities
78.18(15)	Award; acceptance

CHAPTER 79

DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

79.1(15)	Purpose
79.2(15)	Definitions
79.3(15)	Eligible business; application review
79.4(15)	Eligible program activities; maximum amount of assistance
79.5(15)	Distribution of funds to administrative entities
79.6(15)	Program administration; reporting requirements

CHAPTER 80

IOWA SMALL BUSINESS LOAN PROGRAM

80.1(83GA,SF2389)	Purpose
80.2(83GA,SF2389)	Authority
80.3(83GA,SF2389)	Definitions
80.4(83GA,SF2389)	Administrator
80.5(83GA,SF2389)	General loan terms
80.6(83GA,SF2389)	Eligibility
80.7(83GA,SF2389)	Application
80.8(83GA,SF2389)	Application review
80.9(83GA,SF2389)	Recommendation; loan agreement
80.10(83GA,SF2389)	Repayment
80.11(83GA,SF2389)	Default

CHAPTERS 81 to 100

Reserved

PART V

INNOVATION AND COMMERCIALIZATION ACTIVITIES

CHAPTER 101

MISSION AND RESPONSIBILITIES

101.1(15)	Mission
101.2(15)	Responsibilities

CHAPTER 102

ENTREPRENEUR INVESTMENT AWARDS PROGRAM

102.1(15E)	Authority
102.2(15E)	Purpose
102.3(15E)	Definitions

- 102.4(15E) Program description, application procedures, and delegation of functions
- 102.5(15E) Program funding
- 102.6(15E) Eligibility requirements
- 102.7(15E) Contract and report information required

CHAPTER 103

INFORMATION TECHNOLOGY TRAINING PROGRAM

- 103.1(15,83GA,SF142) Authority—program termination and transition
- 103.2(15,83GA,SF142) Purpose
- 103.3(15,83GA,SF142) Definitions
- 103.4(15,83GA,SF142) Program funding
- 103.5(15,83GA,SF142) Matching funds requirement
- 103.6(15,83GA,SF142) Use of program funds
- 103.7(15,83GA,SF142) Eligible business
- 103.8(15,83GA,SF142) Ineligible business
- 103.9(15,83GA,SF142) Eligible employee
- 103.10(15,83GA,SF142) Ineligible employee
- 103.11(15,83GA,SF142) Application and review process
- 103.12(15,83GA,SF142) Application scoring criteria
- 103.13(15,83GA,SF142) Contract and reporting

CHAPTER 104

INNOVATIVE BUSINESSES INTERNSHIP PROGRAM

- 104.1(15) Authority
- 104.2(15) Purpose
- 104.3(15) Definitions
- 104.4(15) Program funding
- 104.5(15) Eligible business
- 104.6(15) Ineligible business
- 104.7(15) Eligible students
- 104.8(15) Ineligible students
- 104.9(15) Application submittal and review process
- 104.10(15) Application content and other requirements
- 104.11(15) Selection process
- 104.12(15) Application scoring criteria
- 104.13(15) Contract and reporting

CHAPTER 105

DEMONSTRATION FUND

- 105.1(15) Authority
- 105.2(15) Purpose
- 105.3(15) Definitions
- 105.4(15) Project funding
- 105.5(15) Matching funds requirement
- 105.6(15) Eligible applicants
- 105.7(15) Ineligible applicants
- 105.8(15) Application and review process
- 105.9(15) Application selection criteria
- 105.10(15) Contract and reporting

CHAPTER 106
SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY
TRANSFER OUTREACH PROGRAM

- 106.1(15) Authority
- 106.2(15) Purpose and goals
- 106.3(15) Definitions
- 106.4(15) Program description, application procedures, and delegation of functions
- 106.5(15) Program funding
- 106.6(15) Eligibility requirements
- 106.7(15) Contract and report information required

CHAPTER 107
TARGETED INDUSTRIES NETWORKING FUND

- 107.1(82GA,ch122) Authority—fund termination and transition
- 107.2(82GA,ch122) Purpose
- 107.3(82GA,ch122) Definitions
- 107.4(82GA,ch122) Program funding
- 107.5(82GA,ch122) Eligible applicants
- 107.6(82GA,ch122) Application and review process
- 107.7(82GA,ch122) Application selection criteria
- 107.8(82GA,ch122) Contract and reporting

CHAPTER 108
ACCELERATION AND DEVELOPMENT OF INNOVATIVE IDEAS AND BUSINESSES

- 108.1(15) Authority
- 108.2(15) Purpose and description of program components
- 108.3(15) Definitions
- 108.4(15) Program description, application procedures, and delegation of functions
- 108.5(15) Program funding
- 108.6(15) Contract and report information required

CHAPTER 109
TARGETED INDUSTRIES CAREER AWARENESS FUND

- 109.1(82GA,ch122) Authority—fund termination and transition
- 109.2(82GA,ch122) Purpose
- 109.3(82GA,ch122) Definitions
- 109.4(82GA,ch122) Program funding
- 109.5(82GA,ch122) Matching funds requirement
- 109.6(82GA,ch122) Eligible applicants
- 109.7(82GA,ch122) Application and review process
- 109.8(82GA,ch122) Application selection criteria
- 109.9(82GA,ch122) Contract and reporting

CHAPTER 110
Reserved

CHAPTER 111
SUPPLY CHAIN DEVELOPMENT PROGRAM

- 111.1(15,83GA,SF142) Authority—program termination and transition
- 111.2(15,83GA,SF142) Purpose
- 111.3(15,83GA,SF142) Definitions
- 111.4(15,83GA,SF142) Program funding
- 111.5(15,83GA,SF142) Matching funds requirement

- 111.6(15,83GA,SF142) Eligible applicants
- 111.7(15,83GA,SF142) Ineligible applicants
- 111.8(15,83GA,SF142) Application process
- 111.9(15,83GA,SF142) Application selection criteria
- 111.10(15,83GA,SF142) Intellectual property
- 111.11(15,83GA,SF142) Contract and reporting

CHAPTER 112

Reserved

CHAPTER 113

COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION
GRANT PROGRAM

- 113.1(15) Purpose
- 113.2(15) Definitions
- 113.3(15) Program funding
- 113.4(15) Matching funds requirement
- 113.5(15) Eligible applicants
- 113.6(15) Application and review process
- 113.7(15) Application selection criteria
- 113.8(15) Contract and reporting

CHAPTER 114

IOWA INNOVATION COUNCIL

- 114.1(15) Authority
- 114.2(15) Purpose
- 114.3(15) Definitions
- 114.4(15) Iowa innovation council funding
- 114.5(15) Council membership
- 114.6(15) Responsibilities and deliverables
- 114.7(15) Executive committee
- 114.8(15) Application and review process for board-appointed council members
- 114.9(15) Voting
- 114.10(15) Meetings and commitment of time
- 114.11(15) Nonattendance
- 114.12(15) Council work groups
- 114.13(15) Reporting

CHAPTER 115

TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES AND
COMMUNITY-BASED SEED CAPITAL FUNDS

- 115.1(84GA,SF517) Tax credits for investments in qualifying businesses and community-based seed capital funds
- 115.2(84GA,SF517) Definitions
- 115.3(84GA,SF517) Cash investments required
- 115.4(84GA,SF517) Applying for an investment tax credit
- 115.5(84GA,SF517) Verification of qualifying businesses and community-based seed capital funds
- 115.6(84GA,SF517) Approval, issuance and distribution of investment tax credits
- 115.7(84GA,SF517) Claiming the tax credits
- 115.8(84GA,SF517) Notification to the department of revenue
- 115.9(84GA,SF517) Rescinding tax credits
- 115.10(84GA,SF517) Additional information

CHAPTER 116

TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

116.1(15E)	Tax credit for investments in certified innovation funds
116.2(15E)	Definitions
116.3(15E)	Certification of innovation funds
116.4(15E)	Maintenance, reporting, and revocation of certification
116.5(15E)	Application for the investment tax credit certificate
116.6(15E)	Approval, issuance and distribution of investment tax credits
116.7(15E)	Transferability of the tax credit
116.8(15E)	Vested right in the tax credit
116.9(15E)	Claiming the tax credits
116.10(15E)	Notification to the department of revenue
116.11(15E)	Additional information

CHAPTER 117

SSBCI DEMONSTRATION FUND

117.1(84GA,HF590)	Authority
117.2(84GA,HF590)	Purposes, goals, and promotion
117.3(84GA,HF590)	Definitions
117.4(84GA,HF590)	Project funding
117.5(84GA,HF590)	Leverage of financial assistance required
117.6(84GA,HF590)	Eligible applicants
117.7(84GA,HF590)	Ineligible applicants
117.8(84GA,HF590)	Application and review process
117.9(84GA,HF590)	Application selection criteria
117.10(84GA,HF590)	Contract and reporting

CHAPTERS 118 to 162

Reserved

PART VI

ADMINISTRATION DIVISION

CHAPTER 163

DIVISION RESPONSIBILITIES

163.1(15)	Mission
163.2(15)	Structure

CHAPTER 164

USE OF MARKETING LOGO

164.1(15)	Purpose and limitation
164.2(15)	Definitions
164.3(15)	Guidelines
164.4(15)	Review and approval of applications
164.5(15)	Licensing agreement; use of logo
164.6(15)	Denial or suspension of use of logo
164.7(15)	Request for hearing
164.8(15)	Requests for information

CHAPTER 165

ALLOCATION OF GROW IOWA VALUES FUND

165.1(15G,83GA,SF344)	Purpose
165.2(15G,83GA,SF344)	Definitions
165.3(15G,83GA,SF344)	Grow Iowa values fund (2009)

- 165.4(15G,83GA,SF344) Allocation of annual appropriation for grow Iowa values fund moneys—\$50M
 165.5(15G,83GA,SF344) Board allocation of other moneys in fund
 165.6(15G,83GA,SF344) Annual fiscal year allocations by board
 165.7(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012

CHAPTERS 166 to 170

Reserved

PART VII

ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES

CHAPTER 171

SUPPLEMENTAL CREDIT OR POINTS

- 171.1(15A) Applicability
 171.2(15A) Brownfield areas, blighted areas and distressed areas
 171.3(15A) Good neighbor agreements
 171.4(82GA,HF647) Iowa great places agreements

CHAPTER 172

ENVIRONMENTAL LAW COMPLIANCE; VIOLATIONS OF LAW

- 172.1(15A) Environmental law compliance
 172.2(15A) Violations of law

CHAPTER 173

STANDARD DEFINITIONS

- 173.1(15) Applicability
 173.2(15) Definitions

CHAPTER 174

WAGE, BENEFIT, AND INVESTMENT REQUIREMENTS

- 174.1(15) Applicability
 174.2(15) Qualifying wage threshold calculations
 174.3(15) Qualifying wage threshold requirements—prior to July 1, 2009
 174.4 Reserved
 174.5(15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012
 174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012
 174.7(15) Job obligations
 174.8(15) Benefit requirements—prior to July 1, 2009
 174.9(15) Sufficient benefits requirement—on or after July 1, 2009
 174.10(15) Capital investment, qualifying investment for tax credit programs, and investment qualifying for tax credits

CHAPTER 175

APPLICATION REVIEW AND APPROVAL PROCEDURES

- 175.1(15) Applicability
 175.2(15) Application procedures for programs administered by the authority
 175.3(15) Standard program requirements
 175.4(15) Review and approval of applications
 175.5(15) Local match requirements for project awards

CHAPTERS 176 to 186

Reserved

PART VIII
LEGAL AND COMPLIANCE

CHAPTER 187
CONTRACTING

- 187.1(15) Applicability
- 187.2(15) Contract required
- 187.3(15) Project completion date and maintenance period completion date
- 187.4(15) Contract and award amendment approval procedures
- 187.5(15) Default

CHAPTER 188
CONTRACT COMPLIANCE AND JOB COUNTING

- 188.1(15) Applicability
- 188.2(15) Contract compliance
- 188.3(15) Job counting and tracking
- 188.4(15) Business's employment base
- 188.5(15) Job counting using base employment analysis
- 188.6(15) Wage determination for contract compliance purposes

CHAPTER 189
ANNUAL REPORTING

- 189.1(15) Annual reporting by businesses required (for period ending June 30)
- 189.2(15) January 31 report by authority to legislature

CHAPTERS 190 to 194
Reserved

PART IX
UNIFORM PROCEDURES: RECORDS, RULE MAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 195.1(17A,22) Statement of policy, purpose and scope of chapter
- 195.2(17A,22) Definitions
- 195.3(17A,22) Requests for access to records
- 195.4(17A,22) Access to confidential records
- 195.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
- 195.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 195.7(17A,22) Consent to disclosure by the subject of a confidential record
- 195.8(17A,22) Notice to suppliers of information
- 195.9(17A,22) Disclosures without the consent of the subject
- 195.10(17A,22) Routine use
- 195.11(17A,22) Consensual disclosure of confidential records
- 195.12(17A,22) Release to subject
- 195.13(17A,22) Availability of records
- 195.14(17A,22) Personally identifiable information
- 195.15(17A,22) Other groups of records

CHAPTER 196
DEPARTMENT PROCEDURE FOR RULE MAKING

- 196.1(17A) Applicability
- 196.2(17A) Advice on possible rules before notice of proposed rule adoption

196.3(17A)	Public rule-making docket
196.4(17A)	Notice of proposed rule making
196.5(17A)	Public participation
196.6(17A)	Regulatory analysis
196.7(17A,25B)	Fiscal impact statement
196.8(17A)	Time and manner of rule adoption
196.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
196.10(17A)	Exemptions from public rule-making procedures
196.11(17A)	Concise statement of reasons
196.12(17A)	Contents, style, and form of rule
196.13(17A)	Department rule-making record
196.14(17A)	Filing of rules
196.15(17A)	Effectiveness of rules prior to publication
196.16(17A)	Review by department of rules
196.17(17A)	Written criticisms of department rules

CHAPTER 197

PETITION FOR RULE MAKING

197.1(17A)	Petition for rule making
197.2(17A)	Briefs
197.3(17A)	Inquiries
197.4(17A)	Department consideration

CHAPTER 198

PETITION FOR DECLARATORY ORDER

198.1(17A)	Petition for declaratory order
198.2(17A)	Notice of petition
198.3(17A)	Intervention
198.4(17A)	Briefs
198.5(17A)	Inquiries
198.6(17A)	Service and filing of petitions and other papers
198.7(17A)	Consideration
198.8(17A)	Action on petition
198.9(17A)	Refusal to issue order
198.10(17A)	Contents of declaratory order—effective date
198.11(17A)	Copies of orders
198.12(17A)	Effect of a declaratory order

CHAPTER 199

UNIFORM WAIVER AND VARIANCE RULES

199.1(ExecOrd11)	Applicability
199.2(ExecOrd11)	Director/board discretion
199.3(ExecOrd11)	Requester's responsibilities in filing a waiver or variance petition
199.4(ExecOrd11)	Notice
199.5(ExecOrd11)	Department responsibilities regarding petition for waiver or variance
199.6(ExecOrd11)	Public availability
199.7(ExecOrd11)	Voiding or cancellation
199.8(ExecOrd11)	Violations
199.9(ExecOrd11)	Defense
199.10(ExecOrd11,17A)	Appeals

PART X
COMMUNITY ATTRACTION AND INVESTMENT PROGRAMS

CHAPTER 200
REINVESTMENT DISTRICTS PROGRAM

200.1(15J)	Purpose
200.2(15J)	Definitions
200.3(15J)	Program overview
200.4(15J)	Preapplication process
200.5(15J)	Program eligibility and application requirements
200.6(15J)	Application scoring and determination of benefits
200.7(15J)	Final application and approval process
200.8(15J)	Adoption of ordinance and use of funds
200.9(15J)	Plan amendments and reporting
200.10(15J)	Cessation of deposits, district dissolution, and revenue rules

CHAPTERS 201 to 210
Reserved

CHAPTER 211
COMMUNITY ATTRACTION AND
TOURISM DEVELOPMENT (CATD) PROGRAMS

DIVISION I
GENERAL PROVISIONS

211.1(15F)	Purpose
211.2(15F)	Definitions
211.3(15F)	Program components
211.4(15F)	Eligible applicants
211.5(15F)	Eligible projects and forms of assistance
211.6(15F)	Ineligible projects
211.7(15F)	Threshold application requirements
211.8(15F)	Application review criteria
211.9(15F)	Application procedure
211.10(15F)	Administration
211.11 to 211.49	Reserved

DIVISION II
COMMUNITY ATTRACTION AND TOURISM (CAT) FUND

211.50(15F)	Applicability
211.51(15F)	Allocation of funds
211.52 to 211.100	Reserved

DIVISION III
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM (RECAT) FUND

211.101(15F)	Applicability
211.102(15F)	Allocation of funds

DIVISION IV
CAT AND RECAT WAIVERS

211.103(15F)	Procedures for waiver of local or private matching moneys
--------------	---

CHAPTER 212
VISION IOWA PROGRAM

212.1(15F)	Purpose
212.2(15F)	Definitions
212.3(15F)	Allocation of funds

- 212.4(15F) Eligible applicants
- 212.5(15F) Eligible projects and forms of assistance
- 212.6(15F) Ineligible projects
- 212.7(15F) Threshold application requirements
- 212.8(15F) Application review criteria
- 212.9(15F) Application procedure
- 212.10(15F) Administration of awards

CHAPTER 213

VISION IOWA BOARD: UNIFORM WAIVER
AND VARIANCE RULES

- 213.1(17A,ExecOrd11) Applicability
- 213.2(17A,ExecOrd11) Board discretion
- 213.3(17A,ExecOrd11) Requester's responsibilities in filing a waiver or variance petition
- 213.4(17A,ExecOrd11) Notice
- 213.5(17A,ExecOrd11) Board responsibilities regarding petition for waiver or variance
- 213.6(17A,ExecOrd11) Public availability
- 213.7(17A,ExecOrd11) Voiding or cancellation
- 213.8(17A,ExecOrd11) Violations
- 213.9(17A,ExecOrd11) Defense
- 213.10(17A,ExecOrd11) Appeals

CHAPTERS 214 to 299

Reserved

PART XI

RENEWABLE FUEL INFRASTRUCTURE BOARD

CHAPTERS 300 to 310

Reserved

CHAPTER 311

RENEWABLE FUEL INFRASTRUCTURE BOARD—ORGANIZATION

- 311.1(15G) Definitions
- 311.2(15G) Renewable fuel infrastructure board

CHAPTER 312

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
RETAIL MOTOR FUEL SITES

- 312.1(15G) Purpose
- 312.2(15G) Eligible applicants

CHAPTER 313

RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR
BIODIESEL TERMINAL GRANTS

- 313.1(15G) Purpose
- 313.2(15G) Eligible applicants

CHAPTER 314

RENEWABLE FUEL INFRASTRUCTURE PROGRAM ADMINISTRATION

- 314.1(15G) Allocation of awards by congressional district
- 314.2(15G) Form of award available; award amount
- 314.3(15G) Application process
- 314.4(15G) Review process
- 314.5(15G) Contract administration

CHAPTERS 315 to 399

Reserved

PART XII

ENERGY DIVISION

CHAPTER 400

RULES APPLICABLE TO PART XII

- 400.1(84GA,HF590) Definitions
 400.2(84GA,HF590) Purpose, administrative information, and implementation

CHAPTER 401

ADMINISTRATION OF FINANCIAL ASSISTANCE

- 401.1(84GA,HF590) Purpose
 401.2(84GA,HF590) Appropriations
 401.3(84GA,HF590) Control of fund assets
 401.4(84GA,HF590) Allocation of fund moneys
 401.5(84GA,HF590) Eligible applicants
 401.6(84GA,HF590) Eligibility criteria for financial assistance
 401.7(84GA,HF590) Forms of assistance
 401.8(84GA,HF590) Application process
 401.9(84GA,HF590) Confidentiality
 401.10(84GA,HF590) Contents of full application
 401.11(84GA,HF590) Selection criteria
 401.12(84GA,HF590) Contract administration

CHAPTER 402

ENERGY EFFICIENCY COMMUNITY GRANT PROGRAM

- 402.1(84GA,HF590) Purpose
 402.2(84GA,HF590) Definitions
 402.3(84GA,HF590) Requests for applications
 402.4(84GA,HF590) Geographic distribution
 402.5(84GA,HF590) Criteria for review
 402.6(84GA,HF590) Project approval and award of funds

CHAPTERS 403 to 409

Reserved

PART XIII

IOWA BROADBAND DEPLOYMENT GOVERNANCE BOARD

CHAPTER 410

BOARD STRUCTURE AND PROCEDURES

- 410.1(83GA,SF376) Purpose
 410.2(83GA,SF376) Definitions
 410.3(83GA,SF376) Iowa broadband deployment governance board
 410.4(83GA,SF376) Board duties
 410.5(83GA,SF376) Board and committee procedures
 410.6(83GA,SF376) Conflicts of interest

CHAPTER 411

IOWA BROADBAND DEPLOYMENT PROGRAM

- 411.1(83GA,SF376) Purpose
 411.2(83GA,SF376) Definitions
 411.3(83GA,SF376) Eligible applicants

- 411.4(83GA,SF376) Forms of assistance
- 411.5(83GA,SF376) Threshold application requirements
- 411.6(83GA,SF376) Application process
- 411.7(83GA,SF376) Application review procedures
- 411.8(83GA,SF376) Administration of awards

CHAPTER 412

FAIR INFORMATION PRACTICES, WAIVER AND VARIANCE,
AND PETITION FOR RULE MAKING

- 412.1(83GA,SF376) Fair information practices
- 412.2(83GA,SF376) Waiver and variance
- 412.3(83GA,SF376) Petition for rule making

CHAPTER 42
IOWA TOURISM GRANT PROGRAM

261—42.1(15) Definitions. For purposes of this chapter unless the context otherwise requires:

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

“*Collaborative application*” means an application in which either multiple partners are providing monetary support for the project or multiple partners are actively participating in the project or both.

“*Head applicant*” means the applicant on a collaborative application that is both the recipient of the funds and the administrator of the project.

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

“*Meetings, events and professional development*” means the acquisition of or attendance at regional or national tourism-related meetings and conventions; execution of local festivals or similar tourism events that positively impact local and state economies; or execution of local or regional tourism-related education opportunities.

“*Project*” means a tourism-related marketing initiative or a meeting, an event or a professional development effort that benefits both state and local economies.

“*Rural area*” means either a city with a population of 10,000 or less, or a county that is among the 33 least populated in Iowa based on the latest data from the U.S. Census Bureau.

“*Tourism*” means a site or event that attracts people from beyond a 50-mile radius or people who spend the night away from home to visit a site or event.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.2(15) Program description.

42.2(1) The authority will accept competitive applications for tourism-related projects in each fiscal year in which funding is available. The authority will award grants to projects based on the criteria described in subrule 42.4(1), and the authority will award grants to projects in a manner designed to prioritize those projects that provide the greatest benefit to state and local economies.

42.2(2) The maximum grant award is \$5,000 per application. The minimum grant award is \$500 per application.

42.2(3) The authority will make awards based on the total amount of funding available each fiscal year. Funds will be awarded as reimbursement for expenditures that are directly related to the implementation of an eligible project.

42.2(4) There are two classes of applications: (1) tourism-related marketing initiatives and (2) event-based applications, which include meetings, events or professional development efforts. An applicant may submit two applications within a class type or one application within each class type but shall not submit more than two applications each fiscal year. If one of the applications submitted by the applicant is a collaborative application, it will be included among the head applicant’s total number of allowed applications. An applicant shall not receive more than two awards per fiscal year.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.3(15) Program eligibility and application requirements.

42.3(1) Eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant must be a tourism-related entity based in the state of Iowa, including a nonprofit or for-profit organization, city, county, or regional government or planning entity.

b. The applicant shall demonstrate an amount of local match equal to at least 25 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash.

c. The applicant shall submit a completed application, including all of the information described in subrule 42.3(2).

d. The applicant shall submit the application on or before the application deadline established in subrule 42.3(3).

42.3(2) Application requirements. When submitting an application for grant funds under the program, an applicant shall include all of the following information:

a. The applicant's name, mailing address, e-mail address, telephone number, contact person, and federal employer identification number. If the application is a collaborative application, the head applicant shall identify itself and provide the names of all partner applicants.

b. A detailed description of the project, including an explanation of how the project either markets tourism in Iowa or is a tourism-related meeting, event or professional development opportunity, and an explanation of how state funds will support the project.

c. Documentation that the grant request is consistent with the cost of implementing the project.

d. Written documentation establishing the amount and source of the required local cash match.

e. Detailed information sufficient to enable the authority to accurately assess the impact and quality of the project described in the application. Such information shall include how the project is part of an overall plan to increase tourism locally and in the state of Iowa.

f. If the applicant is an event, attraction, restaurant or lodging facility, then the applicant must provide verification that the information about the applicant has been updated at or added to the authority's Web site, www.traveliowa.com, within the 18 months preceding the application deadline. The authority may waive this requirement at its sole discretion.

42.3(3) Deadlines. The authority will only consider applications received on or before the applicable deadline. The deadline shall be 4:30 p.m. the first Monday in August of each fiscal year unless the authority, at its sole discretion, provides a different deadline for the submission of applications. The authority may provide a different deadline for the program as a whole, but the authority will not change the deadline at the request of any individual applicant. The authority will develop an application process and post all relevant application information, including deadline changes, on its Internet site at www.traveliowa.com.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.4(15) Application scoring and approval process.

42.4(1) Scoring criteria. The authority will not review or score an application unless the application meets the requirements and deadlines of rule 261—42.3(15). An application meeting the requirements and deadlines of rule 261—42.3(15) will be given a numerical score between zero and 100. The higher an application's numerical score, the more likely it will receive funding under the program. The criteria used to score the applications and the maximum number of points that may be attributed to each criterion are as follows:

a. Project information: 15 points. The applicant will explain the project, the time line for its creation and implementation and how state funds will support the project. The authority will view favorably information that clearly articulates the project, sets forth a reasonable time line for the project's creation and implementation, and fully describes how state funds will be used to support the project.

b. Tourism industry growth: 15 points. The authority will consider how the project supports the mission of the Iowa tourism office and how the project grows state and local economies. The authority will view favorably applications that are most in line with the mission of the Iowa tourism office and have the most potential to create economic growth.

c. Participation in the tourism industry: 15 points. The authority will view favorably applicants whose representatives are active in the tourism industry. Examples of active participation in the tourism industry include but are not limited to membership in one or more tourism regions; attendance at the Iowa tourism conference; participation in the Iowa tourism office's partnership programs (cooperative and Iowa travel guide advertising); participation in the Travel Federation of Iowa's District Leader Program; and participation in other statewide tourism-related groups such as the Iowa Group Travel Association and Iowa Destination Marketing Alliance.

d. Need: 15 points. The authority will consider the financial need of an applicant and will recognize the importance of funding projects that would not take place without assistance under the program.

e. Quality and strategy: 15 points. The authority will view favorably projects that are part of a broader strategy to increase tourism locally and in the state of Iowa.

f. Local cash match/leveraged funds ratio: 10 points. The authority will consider the proportion of local cash match to the project's total budget and will view favorably applications with the highest ratio of local cash match to the project's total budget.

g. Collaboration: 5 points. The authority will view favorably applications that represent a collaboration of multiple entities.

h. Iowa tourism office recognition: 5 points. Applicants may determine the most appropriate way to recognize the authority's Iowa tourism office for its investment in the project. The authority will view favorably applicants with a well-developed plan to recognize the Iowa tourism office.

i. Population diversity: 5 points. Applications from an applicant based in a rural area, as defined in rule 261—42.1(15), will receive 5 points. Applications from applicants not based in a rural area will receive zero points. If the application is a collaborative application, population diversity will be based on the community of the head applicant.

42.4(2) Approval process. The director of the authority will establish a review committee consisting of members of the Iowa tourism industry. The committee will score all completed applications in accordance with the criteria described in rules 261—42.3(15) and 261—42.4(15) and will use those scores to determine successful applicants. The committee may recommend partial funding of any or all applicants. If, after initially scoring all of the completed applications, the review committee is not able to allocate all the funds available, the authority may allow one or more additional rounds of applications to be submitted and scored. Before the execution of contracts, the authority will provide an award letter for each successful applicant to indicate the applicant's acceptance or rejection of the recommended award amount. If any awards are rejected, the authority may allow one or more additional rounds of applications to be submitted and scored. For each additional round of applications, the authority will follow the same eligibility requirements and use the same scoring criteria as used in earlier rounds. The authority may accept as many rounds of applications for awards as it deems appropriate.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.5(15) Contract administration.

42.5(1) Notice of approval. The authority will notify successful applicants in writing of an approved request for funding. Such a notification may include the terms or conditions under which approval is granted.

42.5(2) Contract required. Each successful applicant that accepts the recommended award amount shall enter into a contract with the authority. The contract will describe the project that the applicant will institute as described in the application and will include the terms and conditions under which the grant funds will be disbursed. The contract will also include the terms and conditions under which grant funds must be repaid or penalties incurred in the event the grantee does not fulfill all obligations under the contract.

42.5(3) Contract amendments. All requests by a grantee for an amendment to the contract will require the approval of the director of the authority. The director will review each such request and approve or deny it. If a request is approved, the grantee and the director will execute a written amendment to the contract. Only a written amendment duly executed by both parties to the contract will be valid and binding.

42.5(4) Reports required. Each grantee shall submit a written report to the authority within 60 days of the end of the project completion date, as specified in the contract.

42.5(5) Record keeping. Each grantee shall maintain all records necessary for the verification and validation of the proper use of grant funds under the contract and shall submit such records to the authority upon request.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.6(15) Expenses, records, and reimbursements.

42.6(1) General. Each grantee shall at all times incur expenses and be reimbursed for such expenses by the authority only as described in this chapter or in a contract executed hereunder. The authority may

deny reimbursement for any expenditure not directly related to the implementation of a tourism-related marketing project or a meeting, an event or a professional development project.

42.6(2) *Eligible expenses.* Only expenditures directly related to the implementation of a tourism-related marketing project or a meeting, an event or a professional development project will be reimbursed under the program. Examples of eligible expenses include the following:

a. The costs associated with all phases of the execution of marketing tactics and strategies, including planning and design and production of tools such as advertising, print materials, digital tools and exhibits.

b. The cost to register for a tourism-related regional or national conference.

c. The costs associated with producing or hosting a meeting or training that shares best practices or otherwise provides tourism-related education, including but not limited to payments to speakers, payments to vendors, venue rental, and equipment rental.

d. The costs associated with acquiring a regional or national meeting, including but not limited to bid fees, rights fees, sponsorships, payments to vendors, venue rental, and equipment rental.

e. The costs associated with executing a local event or festival, including but not limited to payments to vendors, payments to speakers or entertainers, venue rental, and equipment rental for new events or existing events in Iowa in order to augment the event.

42.6(3) *Ineligible expenses.* Expenses that are not directly related to the implementation of a tourism-related marketing project or a meeting, an event or a professional development project will be deemed ineligible. Ineligible expenses include but are not limited to solicitation efforts; lobbying fees; items that are purchased for resale; prizes given to participants or event/festival attendees; alcoholic beverages; internships; all travel, meal and lodging costs of applicant staff or the applicant's contractor; projects that receive funding from the authority's regional sports authority district program; marketing programs already subsidized by the authority including, but not limited to, advertising in the Iowa travel guide or participation in the cooperative partnership program; or a project of an Iowa tourism region.

42.6(4) *Required records and reimbursements.* A grantee shall submit any records requested by the authority as documentation of the expenditures incurred for implementation of the project. Such records may include invoices, original receipts, or check copies. If a grantee pays an expense using a credit card, the grantee shall submit a copy of a check register or bank statement indicating that the credit card invoice was paid. The authority will not reimburse expenses included on a nonitemized receipt.

42.6(5) *Repayments of certain funds.* If the authority reimburses a grantee for the cost of a refundable bid fee and the grantee is unsuccessful in the effort to win the right to hold that event, then the grantee shall return the amount of such reimbursement to the authority.

42.6(6) *Reallocation of funds.* If, at the time of a grantee's final reporting of expenses, the grantee cannot adequately document eligible expenses or documents an amount that is less than the awarded amount, the authority may award additional funds to other grantees, open additional rounds of applications, or revert the moneys to the general fund. If the authority awards additional funds to other grantees, such grantees shall submit documentation establishing how such funds will be expended, and the authority will execute contract amendments providing for the expenditure of the additional funds.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

These rules are intended to implement Iowa Code section 15.106A.

[Filed Emergency After Notice ARC 1493C (Notice ARC 1380C, IAB 3/19/14), IAB 6/11/14,
effective 5/19/14]

CHAPTER 43
MAIN STREET LINKED INVESTMENTS LOAN PROGRAM

Rescinded IAB 7/9/03, effective 8/13/03

EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
 Prior to 9/7/88, see Public Instruction Department[670]
 (Replacement pages for 9/7/88 published in 9/21/88 IAC)

TITLE I
*GENERAL INFORMATION—
 DEPARTMENT OPERATIONS*

CHAPTER 1
 ORGANIZATION AND OPERATION

- 1.1(17A,256) State board of education
- 1.2(17A,256) Student member of state board of education
- 1.3(17A,256) Director of education
- 1.4(17A,256) Department of education

CHAPTER 2
 AGENCY PROCEDURE FOR RULE MAKING
 AND PETITIONS FOR RULE MAKING
 (Uniform Rules)

- 2.1(17A) Applicability
- 2.2(17A) Advice on possible rules before notice of proposed rule adoption
- 2.3(17A) Public rule-making docket
- 2.4(17A) Notice of proposed rule making
- 2.5(17A) Public participation
- 2.6(17A) Regulatory analysis
- 2.7(17A,25B) Fiscal impact statement
- 2.8(17A) Time and manner of rule adoption
- 2.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 2.10(17A) Exemptions from public rule-making procedures
- 2.11(17A) Concise statement of reasons
- 2.12(17A) Contents, style, and form of rule
- 2.13(17A) Agency rule-making record
- 2.14(17A) Filing of rules
- 2.15(17A) Effectiveness of rules prior to publication
- 2.16(17A) General statements of policy
- 2.17(17A) Review by agency of rules
- 2.18(17A) Petition for rule making
- 2.19(17A) Inquiries

CHAPTER 3
 DECLARATORY ORDERS
 (Uniform Rules)

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.10(17A) Contents of declaratory order—effective date
- 3.11(17A) Copies of orders
- 3.12(17A) Effect of a declaratory order

CHAPTER 4
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

4.1(17A,ExecOrd11)	Definitions
4.2(17A,ExecOrd11)	Scope of chapter
4.3(17A,ExecOrd11)	Applicability of chapter
4.4(17A,ExecOrd11)	Criteria for waiver
4.5(17A,ExecOrd11)	Filing of petition
4.6(17A,ExecOrd11)	Content of petition
4.7(17A,ExecOrd11)	Additional information
4.8(17A,ExecOrd 11)	Notice
4.9(17A,ExecOrd11)	Hearing procedures
4.10(17A,ExecOrd11)	Ruling
4.11(17A,ExecOrd11)	Public availability
4.12(17A,ExecOrd11)	Summary reports
4.13(17A,ExecOrd11)	Cancellation
4.14(17A,ExecOrd11)	Violations
4.15(17A,ExecOrd11)	Defense
4.16(17A,ExecOrd11)	Judicial review
4.17(17A,ExecOrd11)	Exception

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

5.1(256)	Definitions
5.3(256)	Requests for access to records
5.6(256)	Procedure by which additions, dissents, or objections may be entered into certain records
5.9(256)	Disclosures without the consent of the subject
5.10(256)	Routine use
5.11(256)	Consensual disclosure of confidential records
5.12(256)	Release to a subject
5.13(256)	Availability of records
5.14(256)	Personally identifiable information
5.15(256)	Other groups of records
5.16(256)	Applicability

CHAPTER 6
APPEAL PROCEDURES

6.1(290)	Scope of appeal
6.2(256,290,17A)	Definitions
6.3(290,17A)	Manner of appeal
6.4(17A)	Continuances
6.5(17A)	Intervention
6.6(17A)	Motions
6.7(17A)	Disqualification
6.8(290)	Subpoena of witnesses and costs
6.9(17A)	Discovery
6.10(17A)	Consolidation—severance
6.11(17A)	Waiver of procedures
6.12(17A)	Appeal hearing
6.13	Reserved
6.14(17A)	Ex parte communication
6.15(17A)	Record

- 6.16(17A) Recording costs
- 6.17(290,17A) Decision and review
- 6.18(290) Finality of decision
- 6.19(17A) Default
- 6.20(17A) Application for rehearing of final decision
- 6.21(17A) Rehearing
- 6.22(17A) Emergency adjudicative proceedings

CHAPTER 7
CRITERIA FOR GRANTS

- 7.1(256,17A) Purpose
- 7.2(256,17A) Definitions
- 7.3(256,17A) Requirements
- 7.4(256,17A) Review process
- 7.5(290,17A) Appeal of grant denial or termination

CHAPTERS 8 to 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION

- 11.1(PL107-110) Purpose
- 11.2(PL107-110) Definitions
- 11.3(PL107-110) Whole school option
- 11.4(PL107-110) Individual student option
- 11.5(PL107-110) District reporting

CHAPTER 12
GENERAL ACCREDITATION STANDARDS

DIVISION I
GENERAL STANDARDS

12.1(256) General standards

DIVISION II
DEFINITIONS

12.2(256) Definitions

DIVISION III
ADMINISTRATION

12.3(256) Administration

DIVISION IV
SCHOOL PERSONNEL

12.4(256) School personnel

DIVISION V
EDUCATION PROGRAM

12.5(256) Education program

DIVISION VI
ACTIVITY PROGRAM

12.6(256) Activity program

DIVISION VII
STAFF DEVELOPMENT

12.7(256,284,284A) Professional development

DIVISION VIII
ACCOUNTABILITY

12.8(256) Accountability for student achievement

DIVISION IX
EXEMPTION REQUEST PROCESS

12.9(256) General accreditation standards exemption request

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

12.10(256) Independent accrediting agencies

CHAPTERS 13 and 14
Reserved

CHAPTER 15
USE OF ONLINE LEARNING AND TELECOMMUNICATIONS
FOR INSTRUCTION BY SCHOOLS

15.1(256) Purpose

15.2(256) Definitions

DIVISION I
USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

15.3(256) Interactivity

15.4(256) Course eligibility

15.5(256) Teacher preparation and accessibility

15.6(256) School responsibilities

DIVISION II
ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

15.7(256) School district responsibilities

15.8(256) Prohibition regarding open enrollment

15.9(256) Special education services

DIVISION III
IOWA LEARNING ONLINE (ILO)

15.10(256) Appropriate applications of ILO coursework
 15.11(256) Inappropriate applications of ILO coursework; criteria for waiver
 15.12(256) School and school district responsibilities
 15.13(256) Department responsibilities
 15.14(256) Enrollment in an ILO course

CHAPTER 16

STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

16.1(256C) Purpose
 16.2(256C) Definitions
 16.3(256C) Preschool program standards
 16.4(256C) Collaboration requirements
 16.5(256C) Applications for funding
 16.6(256C) Application process
 16.7(256C) Award contracts
 16.8(256C) Contract termination
 16.9(256C) Criteria for applications for funding
 16.10(256C) Appeal of application denial or termination
 16.11(256C) Finance
 16.12(256C) Transportation
 16.13(256C) Accountability requirements
 16.14(256C) Monitoring
 16.15(256C) Open enrollment not applicable

CHAPTER 17

OPEN ENROLLMENT

17.1(282) Intent and purpose
 17.2(282) Definitions
 17.3(282) Application process
 17.4(282) Filing after the March 1 deadline—good cause
 17.5(282) Filing after the March 1 deadline—harassment or serious health condition
 17.6(282) Restrictions to open enrollment requests
 17.7(282) Open enrollment for kindergarten
 17.8(282) Requirements applicable to parents/guardians and students
 17.9(282) Transportation
 17.10(282) Method of finance
 17.11(282) Special education students
 17.12(282) Laboratory school provisions
 17.13(282) Applicability
 17.14(282) Voluntary diversity plans or court-ordered desegregation plans

CHAPTER 18

SCHOOL FEES

18.1(256) Policy
 18.2(256) Fee policy
 18.3(256) Eligibility for waiver, partial waiver or temporary waiver of student fees
 18.4(256) Fees covered
 18.5(256) Effective date

CHAPTERS 19 and 20

Reserved

TITLE III
COMMUNITY COLLEGESCHAPTER 21
COMMUNITY COLLEGESDIVISION I
APPROVAL STANDARDS

21.1(260C)	Definitions
21.2(260C)	Administration
21.3	Reserved
21.4(260C)	Curriculum and evaluation
21.5(260C)	Library or learning resource center
21.6(260C)	Student services
21.7(260C)	Laboratories, equipment and supplies
21.8(260C)	Physical plant
21.9(260C)	Nonreimbursable facilities
21.10 to 21.19	Reserved

DIVISION II
COMMUNITY COLLEGE ENERGY APPROPRIATIONS

21.20 to 21.29	Reserved
----------------	----------

DIVISION III
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

21.30(321J)	Purpose
21.31(321J)	Course
21.32(321J)	Tuition fee established
21.33(321J)	Administrative fee established
21.34(321J)	Advisory committee

DIVISION IV
JOBS NOW CAPITALS ACCOUNT

21.35 to 21.44	Reserved
----------------	----------

DIVISION V
STATE COMMUNITY COLLEGE FUNDING PLAN

21.45(260C)	Purpose
-------------	---------

DIVISION VI
INTERCOLLEGIATE ATHLETIC COMPETITION

21.46 to 21.56	Reserved
----------------	----------

DIVISION VII
QUALITY INSTRUCTIONAL CENTER INITIATIVE

21.57 to 21.63	Reserved
----------------	----------

DIVISION VIII
PROGRAM AND ADMINISTRATIVE SHARING INITIATIVE

21.64 to 21.71	Reserved
----------------	----------

DIVISION IX
APPRENTICESHIP PROGRAM

21.72(260C)	Purpose
21.73(260C)	Definitions
21.74(260C)	Apprenticeship programs

DIVISION X
MISCELLANEOUS PROVISIONS

21.75(260C,82GA,SF358) Used motor vehicle dealer education program

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

DIVISION I
GENERAL PROVISIONS

22.1(261E) Scope
22.2(261E) Student eligibility
22.3(261E) Teacher eligibility, responsibilities
22.4(261E) Institutional eligibility, responsibilities
22.5 Reserved

DIVISION II
DEFINITIONS

22.6(261E) Definitions

DIVISION III
ADVANCED PLACEMENT PROGRAM

22.7(261E) School district obligations
22.8(261E) Obligations regarding registration for advanced placement examinations
22.9 and 22.10 Reserved

DIVISION IV
CONCURRENT ENROLLMENT PROGRAM

22.11(261E) Applicability
22.12 and 22.13 Reserved

DIVISION V
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

22.14(261E) Availability
22.15(261E) Notification
22.16(261E) Student eligibility
22.17(261E) Eligible postsecondary courses
22.18(261E) Application process
22.19(261E) Credits
22.20(261E) Transportation
22.21(261E) Tuition payments
22.22(261E) Tuition reimbursements and adjustments
22.23 Reserved

DIVISION VI
CAREER ACADEMIES

22.24(261E) Career academies
22.25 Reserved

DIVISION VII
REGIONAL ACADEMIES

22.26(261E) Regional academies
22.27(261E) Waivers for certain regional academies

DIVISION VIII
INTERNET-BASED AND ICN COURSEWORK

22.28(261E) Internet-based coursework
22.29(261E) ICN-based coursework
22.30 and 22.31 Reserved

DIVISION IX
PROJECT LEAD THE WAY

22.32(261E) Project lead the way

CHAPTER 23
ADULT EDUCATION

23.1(260C) Planning process

23.2(260C) Final plan

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

24.1(260C) Purpose

24.2(260C) Scope

24.3(260C) Definitions

24.4(260C) Accreditation components and criteria—Higher Learning Commission

24.5(260C) Accreditation components and criteria—additional state standards

24.6(260C) Accreditation process

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM;
GAP TUITION ASSISTANCE PROGRAM

DIVISION I
GENERAL PROVISIONS

25.1(260H,260I) Scope

25.2(260H,260I) Definitions

25.3 to 25.10 Reserved

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

25.11(260H) Purpose

25.12(260H) Target populations

25.13(260H) Eligibility criteria for projects

25.14(260H) Program component requirements

25.15(260H) Pipeline program

25.16(260H) Career pathways and bridge curriculum development program

25.17 to 25.19 Reserved

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

25.20(260I) Purpose

25.21(260I) Applicants for tuition assistance—eligibility criteria

25.22(260I) Applicants for tuition assistance—additional provisions

25.23(260I) Eligible costs

25.24(260I) Eligible certificate programs

25.25(260I) Initial assessment

25.26(260I) Program interview

25.27(260I) Participation requirements

25.28(260I) Oversight

TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTERS 26 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31

PRIVATE INSTRUCTION AND DUAL ENROLLMENT

31.1(299,299A)	Purpose and definitions
31.2(299)	Reports as to competent private instruction
31.3(299,299A)	Duties of privately retained licensed practitioners
31.4(299,299A)	Duties of licensed practitioners, home school assistance program
31.5(299A)	School district duties related to competent private instruction
31.6(299A)	Dual enrollment
31.7(299)	Open enrollment
31.8(299A)	Baseline evaluation and annual assessment
31.9(299A)	Reporting assessment results
31.10(299A)	Special education students
31.11(299,299A)	Independent private instruction
31.12(299,299A)	Miscellaneous provisions

CHAPTER 32

HIGH SCHOOL EQUIVALENCY DIPLOMA

32.1(259A)	Test
32.2(259A)	By whom administered
32.3(259A)	Minimum score
32.4(259A)	Effectiveness of test scores
32.5(259A)	Retest
32.6(259A)	Application fee
32.7(259A)	Diploma, transcript, verification fees
32.8(259A)	Admission to testing

CHAPTER 33

EDUCATING THE HOMELESS

33.1(256)	Purpose
33.2(256)	Definitions
33.3(256)	Responsibilities of the board of directors
33.4(256)	School records; student transfers
33.5(256)	Immunization requirements
33.6(256)	Waiver of fees and charges encouraged
33.7(256)	Waiver of enrollment requirements encouraged; placement
33.8(256)	Residency of homeless child or youth
33.9(256)	Dispute resolution
33.10(256)	Transportation of homeless children and youth
33.11(256)	School services

CHAPTER 34

FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS
OR MENTAL HEALTH INSTITUTES

34.1(218)	Scope
34.2(218)	Definitions
34.3(218)	General principles
34.4(218)	Notification
34.5(218)	Program submission and approval
34.6(218)	Budget submission and approval
34.7(218)	Payments

- 34.8(218) Payments to the AEA
- 34.9(218) Contracting for services
- 34.10(218) Accounting for average daily attendance
- 34.11(218) Accounting for actual program costs
- 34.12(218) Audit
- 34.13(218) Hold-harmless provision
- 34.14(218,256B,34CFR300) AEA services
- 34.15(218,233A,261C) Postsecondary credit courses

CHAPTER 35

Reserved

TITLE VI

INTERSCHOLASTIC COMPETITION

CHAPTER 36

EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

- 36.1(280) Definitions
- 36.2(280) Registered organizations
- 36.3(280) Filings by organizations
- 36.4(280) Executive board
- 36.5(280) Federation membership
- 36.6(280) Salaries
- 36.7(280) Expenses
- 36.8(280) Financial report
- 36.9(280) Bond
- 36.10(280) Audit
- 36.11(280) Examinations by auditors
- 36.12(280) Access to records
- 36.13(280) Appearance before state board
- 36.14(280) Interscholastic athletics
- 36.15(280) Eligibility requirements
- 36.16(280) Executive board review
- 36.17(280) Appeals to director
- 36.18(280) Organization policies
- 36.19(280) Eligibility in situations of district organization change
- 36.20(280) Cooperative student participation

CHAPTER 37

EXTRACURRICULAR ATHLETIC ACTIVITY

CONFERENCE FOR MEMBER SCHOOLS

- 37.1(280) Policy and purpose
- 37.2(280) Initial responsibility
- 37.3(280) Complaint to the director, department of education
- 37.4(280) Mediation
- 37.5(280) Resolution or recommendation of the mediation team
- 37.6(280) Decision
- 37.7(280) Effective date of the decision

CHAPTERS 38 to 40

Reserved

TITLE VII
SPECIAL EDUCATIONCHAPTER 41
SPECIAL EDUCATIONDIVISION I
PURPOSE AND APPLICABILITY

- 41.1(256B,34CFR300) Purposes
- 41.2(256B,34CFR300) Applicability of this chapter

DIVISION II
DEFINITIONS

- 41.3(256B,34CFR300) Act
- 41.4(256B,273) Area education agency
- 41.5(256B,34CFR300) Assistive technology device
- 41.6(256B,34CFR300) Assistive technology service
- 41.7(256B,34CFR300) Charter school
- 41.8(256B,34CFR300) Child with a disability
- 41.9(256B,34CFR300) Consent
- 41.10(256B,34CFR300) Core academic subjects
- 41.11(256B,34CFR300) Day; business day; school day
- 41.12(256B,34CFR300) Educational service agency
- 41.13(256B,34CFR300) Elementary school
- 41.14(256B,34CFR300) Equipment
- 41.15(256B,34CFR300) Evaluation
- 41.16(256B,34CFR300) Excess costs
- 41.17(256B,34CFR300) Free appropriate public education
- 41.18(256B,34CFR300) Highly qualified special education teachers
- 41.19(256B,34CFR300) Homeless children
- 41.20(256B,34CFR300) Include
- 41.21(256B,34CFR300) Indian and Indian tribe
- 41.22(256B,34CFR300) Individualized education program
- 41.23(256B,34CFR300) Individualized education program team
- 41.24(256B,34CFR300) Individualized family service plan
- 41.25(256B,34CFR300) Infant or toddler with a disability
- 41.26(256B,34CFR300) Institution of higher education
- 41.27(256B,34CFR300) Limited English proficient
- 41.28(256B,34CFR300) Local educational agency
- 41.29(256B,34CFR300) Native language
- 41.30(256B,34CFR300) Parent
- 41.31(256B,34CFR300) Parent training and information center
- 41.32(256B,34CFR300) Personally identifiable
- 41.33(256B,34CFR300) Public agency; nonpublic agency; agency
- 41.34(256B,34CFR300) Related services
- 41.35(34CFR300) Scientifically based research
- 41.36(256B,34CFR300) Secondary school
- 41.37(34CFR300) Services plan
- 41.38(34CFR300) Secretary
- 41.39(256B,34CFR300) Special education
- 41.40(34CFR300) State
- 41.41(256B,34CFR300) State educational agency
- 41.42(256B,34CFR300) Supplementary aids and services
- 41.43(256B,34CFR300) Transition services

- 41.44(34CFR300) Universal design
- 41.45(256B,34CFR300) Ward of the state
- 41.46 to 41.49 Reserved
- 41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals
- 41.51(256B,34CFR300) Other definitions applicable to this chapter
- 41.52 to 41.99 Reserved

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

- 41.100(256B,34CFR300) Eligibility for assistance
- 41.101(256B,34CFR300) Free appropriate public education (FAPE)
- 41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages
- 41.103(256B,34CFR300) FAPE—methods and payments
- 41.104(256B,34CFR300) Residential placement
- 41.105(256B,34CFR300) Assistive technology
- 41.106(256B,34CFR300) Extended school year services
- 41.107(256B,34CFR300) Nonacademic services
- 41.108(256B,34CFR300) Physical education
- 41.109(256B,34CFR300) Full educational opportunity goal (FEOG)
- 41.110(256B,34CFR300) Program options
- 41.111(256B,34CFR300) Child find
- 41.112(256B,34CFR300) Individualized education programs (IEPs)
- 41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices
- 41.114(256B,34CFR300) Least restrictive environment (LRE)
- 41.115(256B,34CFR300) Continuum of alternative services and placements
- 41.116(256B,34CFR300) Placements
- 41.117(256B,34CFR300) Nonacademic settings
- 41.118(256B,34CFR300) Children in public or private institutions
- 41.119(256B,34CFR300) Technical assistance and training activities
- 41.120(256B,34CFR300) Monitoring activities
- 41.121(256B,34CFR300) Procedural safeguards
- 41.122(256B,34CFR300) Evaluation
- 41.123(256B,34CFR300) Confidentiality of personally identifiable information
- 41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs
- 41.125 to 41.128 Reserved
- 41.129(256B,34CFR300) Responsibility regarding children in private schools
- 41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities
- 41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities
- 41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement
- 41.133(256,256B,34CFR300) Expenditures
- 41.134(256,256B,34CFR300) Consultation
- 41.135(256,256B,34CFR300) Written affirmation
- 41.136(256,256B,34CFR300) Compliance
- 41.137(256,256B,34CFR300) Equitable services determined
- 41.138(256,256B,34CFR300) Equitable services provided
- 41.139(256,256B,34CFR300) Location of services and transportation
- 41.140(256,256B,34CFR300) Due process complaints and state complaints
- 41.141(256,256B,34CFR300) Requirement that funds not benefit a private school
- 41.142(256,256B,34CFR300) Use of personnel
- 41.143(256,256B,34CFR300) Separate classes prohibited
- 41.144(256,256B,34CFR300) Property, equipment, and supplies

- 41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) to 281—41.147(256B,34CFR300)
- 41.146(256B,34CFR300) Responsibility of department
- 41.147(256B,34CFR300) Implementation by department
- 41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue
- 41.149(256B,34CFR300) SEA responsibility for general supervision
- 41.150 Reserved
- 41.151(256B,34CFR300) Adoption of state complaint procedures
- 41.152(256B,34CFR300) Minimum state complaint procedures
- 41.153(256B,34CFR300) Filing a complaint
- 41.154(256B,34CFR300) Methods of ensuring services
- 41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility
- 41.156(256B,34CFR300) Personnel qualifications
- 41.157 to 41.161 Reserved
- 41.162(256B,34CFR300) Supplementation of state, local, and other federal funds
- 41.163(256B,34CFR300) Maintenance of state financial support
- 41.164 Reserved
- 41.165(256B,34CFR300) Public participation
- 41.166(256B,34CFR300) Rule of construction
- 41.167(256B,34CFR300) State advisory panel
- 41.168(256B,34CFR300) Advisory panel membership
- 41.169(256B,34CFR300) Advisory panel duties
- 41.170(256B,34CFR300) Suspension and expulsion rates
- 41.171 Reserved
- 41.172(256B,34CFR300) Access to instructional materials
- 41.173(256B,34CFR300) Overidentification and disproportionality
- 41.174(256B,34CFR300) Prohibition on mandatory medication
- 41.175 Reserved
- 41.176(256B) Special school provisions
- 41.177(256B) Facilities
- 41.178(256B) Materials, equipment and assistive technology
- 41.179 to 41.185 Reserved
- 41.186(256B,34CFR300) Assistance under other federal programs
- 41.187(256B) Research, innovation, and improvement
- 41.188 to 41.199 Reserved

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

- 41.200(256B,34CFR300) Condition of assistance
- 41.201(256B,34CFR300) Consistency with state policies
- 41.202(256B,34CFR300) Use of amounts
- 41.203(256B,34CFR300) Maintenance of effort
- 41.204(256B,34CFR300) Exception to maintenance of effort
- 41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years
- 41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA
- 41.207(256B,34CFR300) Personnel development
- 41.208(256B,34CFR300) Permissive use of funds
- 41.209(256B,34CFR300) Treatment of charter schools and their students
- 41.210(256B,34CFR300) Purchase of instructional materials
- 41.211(256B,34CFR300) Information for department
- 41.212(256B,34CFR300) Public information
- 41.213(256B,34CFR300) Records regarding migratory children with disabilities
- 41.214 to 41.219 Reserved

- 41.220(256B,34CFR300) Exception for prior local plans
- 41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility
- 41.222(256B,34CFR300) AEA or LEA and state agency compliance
- 41.223(256B,34CFR300) Joint establishment of eligibility
- 41.224(256B,34CFR300) Requirements for jointly establishing eligibility
- 41.225 Reserved
- 41.226(256B,34CFR300) Early intervening services
- 41.227 Reserved
- 41.228(256B,34CFR300) State agency eligibility
- 41.229(256B,34CFR300) Disciplinary information
- 41.230(256B,34CFR300) SEA flexibility
- 41.231 to 41.299 Reserved

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

- 41.300(256B,34CFR300) Parental consent and participation
- 41.301(256B,34CFR300) Full and individual initial evaluations
- 41.302(256B,34CFR300) Screening for instructional purposes is not evaluation
- 41.303(256B,34CFR300) Reevaluations
- 41.304(256B,34CFR300) Evaluation procedures
- 41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations
- 41.306(256B,34CFR300) Determination of eligibility
- 41.307(256B,34CFR300) Specific learning disabilities
- 41.308(256B,34CFR300) Additional group members
- 41.309(256B,34CFR300) Determining the existence of a specific learning disability
- 41.310(256B,34CFR300) Observation
- 41.311(256B,34CFR300) Specific documentation for the eligibility determination
- 41.312(256B,34CFR300) General education interventions
- 41.313(256B,34CFR300) Systematic problem-solving process
- 41.314(256B,34CFR300) Progress monitoring and data collection
- 41.315 to 41.319 Reserved
- 41.320(256B,34CFR300) Definition of individualized education program
- 41.321(256B,34CFR300) IEP team
- 41.322(256B,34CFR300) Parent participation
- 41.323(256B,34CFR300) When IEPs must be in effect
- 41.324(256B,34CFR300) Development, review, and revision of IEP
- 41.325(256B,34CFR300) Private school placements by public agencies
- 41.326(256B,34CFR300) Other rules concerning IEPs
- 41.327(256B,34CFR300) Educational placements
- 41.328(256B,34CFR300) Alternative means of meeting participation
- 41.329 to 41.399 Reserved

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

- 41.400(256B,34CFR300) Shared responsibility
- 41.401(256B,34CFR300) Licensure (certification)
- 41.402(256B,273,34CFR300) Authorized personnel
- 41.403(256B) Paraprofessionals
- 41.404(256B) Policies and procedures required of all public agencies
- 41.405(256B) Special health services
- 41.406(256B) Additional requirements of LEAs
- 41.407(256B,273,34CFR300) Additional requirements of AEAs
- 41.408(256B,273,34CFR300) Instructional services
- 41.409(256B,34CFR300) Support services

- 41.410(256B,34CFR300) Itinerant services
- 41.411(256B,34CFR300) Related services, supplementary aids and services
- 41.412(256B,34CFR300) Transportation
- 41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools
- 41.414 to 41.499 Reserved

DIVISION VII
PROCEDURAL SAFEGUARDS

- 41.500(256B,34CFR300) Responsibility of SEA and other public agencies
- 41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings
- 41.502(256B,34CFR300) Independent educational evaluation
- 41.503(256B,34CFR300) Prior notice by the public agency; content of notice
- 41.504(256B,34CFR300) Procedural safeguards notice
- 41.505(256B,34CFR300) Electronic mail
- 41.506(256B,34CFR300) Mediation
- 41.507(256B,34CFR300) Filing a due process complaint
- 41.508(256B,34CFR300) Due process complaint
- 41.509(256B,34CFR300) Model forms
- 41.510(256B,34CFR300) Resolution process
- 41.511(256B,34CFR300) Impartial due process hearing
- 41.512(256B,34CFR300) Hearing rights
- 41.513(256B,34CFR300) Hearing decisions
- 41.514(256B,34CFR300) Finality of decision
- 41.515(256B,34CFR300) Timelines and convenience of hearings
- 41.516(256B,34CFR300) Civil action
- 41.517(256B,34CFR300) Attorneys' fees
- 41.518(256B,34CFR300) Child's status during proceedings
- 41.519(256B,34CFR300) Surrogate parents
- 41.520(256B,34CFR300) Transfer of parental rights at age of majority
- 41.521 to 41.529 Reserved
- 41.530(256B,34CFR300) Authority of school personnel
- 41.531(256B,34CFR300) Determination of setting
- 41.532(256B,34CFR300) Appeal
- 41.533(256B,34CFR300) Placement during appeals and mediations
- 41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services
- 41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities
- 41.536(256B,34CFR300) Change of placement because of disciplinary removals
- 41.537(256B,34CFR300) State enforcement mechanisms
- 41.538 to 41.599 Reserved

DIVISION VIII
MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

- 41.600(256B,34CFR300) State monitoring and enforcement
- 41.601(256B,34CFR300) State performance plans and data collection
- 41.602(256B,34CFR300) State use of targets and reporting
- 41.603(256B,34CFR300) Department review and determination regarding public agency performance
- 41.604(256B,34CFR300) Enforcement
- 41.605(256B,34CFR300) Withholding funds
- 41.606(256B,34CFR300) Public attention
- 41.607 Reserved
- 41.608(256B,34CFR300) State enforcement
- 41.609(256B,34CFR300) State consideration of other state or federal laws
- 41.610(256B,34CFR300) Confidentiality

- 41.611(256B,34CFR300) Definitions
- 41.612(256B,34CFR300) Notice to parents
- 41.613(256B,34CFR300) Access rights
- 41.614(256B,34CFR300) Record of access
- 41.615(256B,34CFR300) Records on more than one child
- 41.616(256B,34CFR300) List of types and locations of information
- 41.617(256B,34CFR300) Fees
- 41.618(256B,34CFR300) Amendment of records at parent's request
- 41.619(256B,34CFR300) Opportunity for a hearing
- 41.620(256B,34CFR300) Result of hearing
- 41.621(256B,34CFR300) Hearing procedures
- 41.622(256B,34CFR300) Consent
- 41.623(256B,34CFR300) Safeguards
- 41.624(256B,34CFR300) Destruction of information
- 41.625(256B,34CFR300) Children's rights
- 41.626(256B,34CFR300) Enforcement
- 41.627 to 41.639 Reserved
- 41.640(256B,34CFR300) Annual report of children served—report requirement
- 41.641(256B,34CFR300) Annual report of children served—information required in the report
- 41.642(256B,34CFR300) Data reporting
- 41.643(256B,34CFR300) Annual report of children served—certification
- 41.644(256B,34CFR300) Annual report of children served—criteria for counting children
- 41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA
- 41.646(256B,34CFR300) Disproportionality
- 41.647 to 41.699 Reserved

DIVISION IX
ALLOCATIONS BY THE SECRETARY TO THE STATE

- 41.700 to 41.703 Reserved
- 41.704(256B,34CFR300) State-level activities
- 41.705(256B,34CFR300) Subgrants to AEAs
- 41.706 to 41.799 Reserved

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

- 41.800(256B,34CFR300) General rule
- 41.801 and 41.802 Reserved
- 41.803(256B,34CFR300) Definition of state
- 41.804(256B,34CFR300) Eligibility
- 41.805 Reserved
- 41.806(256B,34CFR300) Eligibility for financial assistance
- 41.807 to 41.811 Reserved
- 41.812(256B,34CFR300) Reservation for state activities
- 41.813(256B,34CFR300) State administration
- 41.814(256B,34CFR300) Other state-level activities
- 41.815(256B,34CFR300) Subgrants to AEAs
- 41.816(256B,34CFR300) Allocations to AEAs
- 41.817(256B,34CFR300) Reallocation of AEA funds
- 41.818(256B,34CFR300) Part C of the Act inapplicable
- 41.819 to 41.899 Reserved

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

- 41.900(256B,282) Scope
- 41.901(256B,282) Records and reports
- 41.902(256B,282) Audit
- 41.903(256B,282) Contractual agreements
- 41.904(256B) Research and demonstration projects and models for special education program development
- 41.905(256B,273) Additional special education
- 41.906(256B,273,282) Extended school year services
- 41.907(256B,282,34CFR300,303) Program costs
- 41.908(256B,282) Accountability
- 41.909 to 41.999 Reserved

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

- 41.1000(17A,256B,290) Applicability
- 41.1001(17A,256B,290) Definitions
- 41.1002(256B,34CFR300) Special education mediation conference
- 41.1003(17A,256B) Procedures concerning due process complaints
- 41.1004(17A,256B) Participants in the hearing
- 41.1005(17A,256B) Convening the hearing
- 41.1006(17A,256B) Stipulated record hearing
- 41.1007(17A,256B) Evidentiary hearing
- 41.1008(17A,256B) Mixed evidentiary and stipulated record hearing
- 41.1009(17A,256B) Witnesses
- 41.1010(17A,256B) Rules of evidence
- 41.1011(17A,256B) Communications
- 41.1012(17A,256B) Record
- 41.1013(17A,256B) Decision and review
- 41.1014(17A,256B) Finality of decision
- 41.1015(256B,34CFR300) Disqualification of mediator
- 41.1016(17A) Correcting decisions of administrative law judges
- 41.1017 to 41.1099 Reserved

DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

- 41.1100(256B,34CFR300) References to Code of Federal Regulations
- 41.1101(256B,34CFR300) Severability

CHAPTER 42
Reserved

TITLE VIII
SCHOOL TRANSPORTATION

CHAPTER 43
PUPIL TRANSPORTATION

DIVISION I
TRANSPORTATION ROUTES

- 43.1(285) Intra-area education agency routes
- 43.2(285) Interarea education agency routes

DIVISION II
PRIVATE CONTRACTORS

- 43.3(285) Contract required
- 43.4(285) Uniform charge
- 43.5(285) Board must be party
- 43.6(285) Contract with parents
- 43.7(285) Vehicle requirements

DIVISION III
FINANCIAL RECORDS AND REPORTS

- 43.8(285) Required charges
- 43.9(285) Activity trips deducted

DIVISION IV
USE OF SCHOOL BUSES

- 43.10(285) Permitted uses listed
- 43.11(285) Teacher transportation

DIVISION V
THE BUS DRIVER

- 43.12(285) Driver qualifications
- 43.13(285) Stability factors
- 43.14(285) Driver age
- 43.15(285) Physical fitness
- 43.16 Reserved
- 43.17(285) Insulin-dependent diabetics
- 43.18(285) Authorization to be carried by driver
- 43.19 and 43.20 Reserved
- 43.21(285) Experience, traffic law knowledge and driving record
- 43.22(321) Fee collection and distribution of funds
- 43.23(285) Application form
- 43.24(321) Authorization denials and revocations

DIVISION VI
PURCHASE OF BUSES

- 43.25(285) Local board procedure
- 43.26(285) Financing
- 43.27 to 43.29 Reserved

DIVISION VII
MISCELLANEOUS REQUIREMENTS

- 43.30(285) Semiannual inspection
- 43.31(285) Maintenance record
- 43.32(285) Drivers' schools
- 43.33(285) Insurance
- 43.34(285) Contract—privately owned buses
- 43.35(285) Contract—district-owned buses
- 43.36(285) Accident reports
- 43.37(285) Railroad crossings
- 43.38(285) Driver restrictions
- 43.39(285) Civil defense projects
- 43.40(285) Pupil instruction
- 43.41(285) Trip inspections
- 43.42(285) Loading and unloading areas
- 43.43(285) Communication equipment

DIVISION VIII
COMMON CARRIERS

43.44(285) Standards for common carriers

CHAPTER 44
SCHOOL BUSES

44.1(285) Requirements for manufacturers
 44.2(285) School bus—type classifications
 44.3(285) School bus body and chassis specifications
 44.4(285) Construction of vehicles for children with mobility challenges
 44.5(285) Type III vehicles
 44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture

CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
VOCATIONAL EDUCATION PROGRAMS

46.1(258) Standards for vocational education
 46.2(258) Planning process
 46.3(258) Public involvement and participation
 46.4(258) Final plan and accountability report
 46.5(258) Geographic area
 46.6(258) Revised standards for vocational education
 46.7(258) Definitions and descriptions of procedures

CHAPTER 47
CAREER ACADEMIES

47.1(260C) Definitions
 47.2(260C) Career academy program of study

CHAPTERS 48 to 50
Reserved

TITLE X
VETERANS' TRAINING

CHAPTER 51
APPROVAL OF ON-THE-JOB TRAINING ESTABLISHMENTS
UNDER THE MONTGOMERY G.I. BILL

51.1(256) Application
 51.2(256) Content and approval of application
 51.3(256) Wage schedules

CHAPTER 52
APPROVAL OF EDUCATIONAL INSTITUTIONS
FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS
UNDER THE MONTGOMERY G.I. BILL

52.1(256) Colleges
 52.2(256) High schools
 52.3 Reserved
 52.4(256) Schools of Bible or theology

52.5(256)	Schools of nursing
52.6(256)	Hospitals
52.7(256)	Schools of cosmetology
52.8(256)	Schools of barbering
52.9	Reserved
52.10(256)	Schools of business
52.11(256)	Trade schools
52.12(256)	Correspondence schools
52.13(256)	Successful operation on a continuous basis
52.14(256)	Nonaccredited schools
52.15(256)	Evaluation standards

CHAPTERS 53 to 55

Reserved

TITLE XI

VOCATIONAL REHABILITATION EDUCATION

CHAPTER 56

IOWA VOCATIONAL REHABILITATION SERVICES

DIVISION I

SCOPE AND GENERAL PRINCIPLES

56.1(259)	Responsibility of division
56.2(259)	Nondiscrimination

DIVISION II

DEFINITIONS

56.3(259)	Definitions
-----------	-------------

DIVISION III

ELIGIBILITY

56.4(259)	Individuals who are recipients of SSD/SSI
56.5(259)	Eligibility for vocational rehabilitation services
56.6(259)	Eligibility for specific services
56.7(259)	Areas in which exceptions shall not be granted
56.8(259)	Waiting list
56.9(259)	Individuals who are blind
56.10(259)	Students in high school
56.11(259)	Establishment of financial need

DIVISION IV

CASE MANAGEMENT

56.12(259)	Case finding and intake
56.13(259)	Case diagnosis
56.14(259)	Individual plan for employment (IPE)

DIVISION V

SERVICES

56.15(259)	Scope of services
56.16(259)	Training
56.17(259)	Maintenance
56.18(259)	Transportation
56.19(259)	Rehabilitation technology
56.20	Reserved
56.21(259)	Placement
56.22(259)	Supported employment and transitional employment
56.23(259)	Miscellaneous or auxiliary services

- 56.24(259) Facilities
- 56.25(259) Exceptions to payment for services
- 56.26(259) Exceptions to duration of services
- 56.27(259) Maximum rates of payment to training facilities

DIVISION VI
PURCHASING PRINCIPLES

- 56.28(259) Purchasing

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

- 56.29(259) Review process
- 56.30(259) Supervisor review
- 56.31(259) Mediation
- 56.32(259) Hearing before impartial hearing officer

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

- 56.33(259) Collection and maintenance of records
- 56.34(259) Personally identifiable information
- 56.35(259) Other groups of records routinely available for public inspection

DIVISION IX
STATE REHABILITATION COUNCIL

- 56.36(259) State rehabilitation council

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

- 56.37(259) Purpose
- 56.38(259) Eligibility requirements
- 56.39(259) Application procedure
- 56.40(259) Award of technical assistance funds
- 56.41(259) Business plan feasibility study procedure
- 56.42(259) Award of financial assistance funds

CHAPTER 57

Reserved

TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58

SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS
FOR OTHER FOODS AND BEVERAGES

- 58.1(283A,256) Authority

DIVISION I
SCHOOL BREAKFAST AND LUNCH PROGRAM

- 58.2(283A) Definitions
- 58.3(283A) Agreement required
- 58.4(283A) State plan
- 58.5(283A) Service area defined
- 58.6(283A) School breakfast program
- 58.7(283A) School lunch program
- 58.8(283A) Procurement

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

- 58.9(256) Definitions
- 58.10(256) Scope
- 58.11(256) Nutritional content standards

CHAPTER 59
GIFTED AND TALENTED PROGRAMS

- 59.1(257) Scope and general principles
- 59.2(257) Definitions
- 59.3 Reserved
- 59.4(257) Program plan
- 59.5(257) Responsibilities of school districts
- 59.6(257) Responsibilities of area education agencies
- 59.7(257) Responsibilities of the department

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

- 60.1(280) Scope
- 60.2(280) Definitions
- 60.3(280) School district responsibilities
- 60.4(280) Department responsibility
- 60.5(280) Nonpublic school participation
- 60.6(280) Funding

CHAPTER 61
IOWA READING RESEARCH CENTER

- 61.1(256) Establishment
- 61.2(256) Purpose
- 61.3(256) Intensive summer literacy program
- 61.4(256) First efforts of the center
- 61.5(256) Nature of the center's operation
- 61.6(256) Nature of the center's products
- 61.7(256) Governance and leadership of the center
- 61.8(256) Financing of the center
- 61.9(256) Annual report

CHAPTER 62
STATE STANDARDS FOR PROGRESSION IN READING

- 62.1(256,279) Purpose
- 62.2(256,279) Assessment of reading proficiency
- 62.3(256,279) Tools for evaluating and reevaluating reading proficiency
- 62.4(256,279) Identification of a student as having a substantial deficiency in reading
- 62.5(256,279) Intensive summer reading program
- 62.6(256,279) Successful progression for early readers
- 62.7(256,279) Promotion to grade four
- 62.8(256,279) Good-cause exemption
- 62.9(256,279) Ensuring continuous improvement in reading proficiency
- 62.10(256,279) Miscellaneous provisions

CHAPTER 63
EDUCATIONAL PROGRAMS AND SERVICES
FOR PUPILS IN JUVENILE HOMES

63.1(282)	Scope
63.2(282)	Definitions
63.3(282)	Forms
63.4(282)	Budget amendments
63.5(282)	Area education agency responsibility
63.6(282)	Educational program
63.7(282)	Special education
63.8(282)	Educational services
63.9(282)	Media services
63.10(282)	Other responsibilities
63.11(282)	Curriculum
63.12(282)	Disaster procedures
63.13(282)	Maximum class size
63.14(282)	Teacher certification and preparation
63.15(282)	Aides
63.16(282)	Accounting
63.17(282)	Revenues
63.18(282)	Expenditures
63.19(282)	Claims
63.20(282)	Audits
63.21(282)	Waivers

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

64.1(256A,279)	Purpose
64.2(256A,279)	Definitions
64.3(256A,279)	Child development coordinating council
64.4(256A,279)	Procedures
64.5(256A,279)	Duties
64.6(256A,279)	Eligibility identification procedures
64.7(256A,279)	Primary eligibility
64.8(256A,279)	Secondary eligibility
64.9(256A,279)	Grant awards criteria
64.10(256A,279)	Application process
64.11(256A,279)	Request for proposals
64.12(256A,279)	Grant process
64.13(256A,279)	Award contracts
64.14(256A,279)	Notification of applicants
64.15(256A,279)	Grantee responsibilities
64.16(256A,279)	Withdrawal of contract offer
64.17(256A,279)	Evaluation
64.18(256A,279)	Contract revisions and budget reversions
64.19(256A,279)	Termination for convenience
64.20(256A,279)	Termination for cause
64.21(256A,279)	Responsibility of grantee at termination
64.22(256A,279)	Appeal from terminations
64.23(256A,279)	Refusal to issue ruling
64.24(256A,279)	Request for Reconsideration

- 64.25(256A,279) Refusal to issue decision on request
- 64.26(256A,279) Granting a Request for Reconsideration

CHAPTER 65

INNOVATIVE PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

- 65.1(279) Purpose
- 65.2(279) Definitions
- 65.3(279) Eligibility identification procedures
- 65.4(279) Primary risk factor
- 65.5(279) Secondary risk factors
- 65.6(279) Grant awards criteria
- 65.7(279) Application process
- 65.8(279) Request for proposals
- 65.9(279) Grant process
- 65.10 Reserved
- 65.11(279) Notification of applicants
- 65.12(279) Grantee responsibilities
- 65.13(279) Withdrawal of contract offer
- 65.14(279) Evaluation
- 65.15(279) Contract revisions
- 65.16(279) Termination for convenience
- 65.17(279) Termination for cause
- 65.18(279) Responsibility of grantee at termination
- 65.19(279) Appeals from terminations
- 65.20(279) Refusal to issue ruling
- 65.21(279) Requests for Reconsideration
- 65.22(279) Refusal to issue decision on request
- 65.23(279) Granting a Request for Reconsideration

CHAPTER 66

SCHOOL-BASED YOUTH SERVICES PROGRAMS

- 66.1(279) Scope, purpose and general principles
- 66.2(279) Definitions
- 66.3(279) Development of a program plan
- 66.4(279) Program plan
- 66.5(279) Evaluation of financial support
- 66.6(279) Responsibilities of area education agencies
- 66.7(279) Responsibilities of the department of education

CHAPTER 67

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS OF AT-RISK CHILDREN AGED BIRTH THROUGH FIVE YEARS

- 67.1(279) Purpose
- 67.2(279) Definitions
- 67.3(279) Eligibility identification procedures
- 67.4(279) Eligibility
- 67.5(279) Secondary eligibility
- 67.6(279) Grant awards criteria
- 67.7(279) Application process
- 67.8(279) Request for proposals
- 67.9(279) Award contracts
- 67.10(279) Notification of applicants
- 67.11(279) Grantee responsibilities

67.12(279)	Withdrawal of contract offer
67.13(279)	Evaluation
67.14(279)	Contract revisions
67.15(279)	Termination for convenience
67.16(279)	Termination for cause
67.17(279)	Responsibility of grantee at termination
67.18(279)	Appeal from terminations
67.19(279)	Refusal to issue ruling
67.20(279)	Request for Reconsideration
67.21(279)	Refusal to issue decision on request
67.22(279)	Granting a Request for Reconsideration

CHAPTER 68
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

DIVISION I
GENERAL PROVISIONS

68.1(256F,83GA,SF2033)	Purpose
68.2(256F,83GA,SF2033)	Definitions

DIVISION II
CHARTER SCHOOLS

68.3(256F,83GA,SF2033)	Application to a school board
68.4(256F,83GA,SF2033)	Review process
68.5(256F,83GA,SF2033)	Ongoing review by department
68.6(256F,83GA,SF2033)	Renewal of charter
68.7(256F,83GA,SF2033)	Revocation of charter
68.8 to 68.10	Reserved

DIVISION III
INNOVATION ZONE SCHOOLS

68.11(256F,83GA,SF2033)	Application process
68.12(256F,83GA,SF2033)	Review process
68.13(256F,83GA,SF2033)	Ongoing review by department
68.14(256F,83GA,SF2033)	Renewal of contract
68.15(256F,83GA,SF2033)	Revocation of contract

CHAPTER 69

Reserved

TITLE XIII
AREA EDUCATION AGENCIES

CHAPTERS 70 and 71

Reserved

CHAPTER 72
ACCREDITATION OF AREA EDUCATION AGENCIES

72.1(273)	Scope
72.2(273)	Definitions
72.3(273)	Accreditation components
72.4(273)	Standards for services
72.5 to 72.8	Reserved
72.9(273)	Comprehensive improvement plan
72.10(273)	Annual budget and annual progress report
72.11(273)	Comprehensive site visit

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTERS 73 to 76
Reserved

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

77.1(256)	General statement
77.2(256)	Definitions
77.3(256)	Institutions affected
77.4(256)	Criteria for Iowa teacher intern preparation programs
77.5(256)	Approval of programs
77.6(256)	Periodic reports
77.7(256)	Approval of program changes
77.8(256)	Governance and resources
77.9(256)	Diversity
77.10(256)	Faculty
77.11(256)	Teacher intern selection
77.12(256)	Curriculum and instruction
77.13(256)	Candidate support
77.14(256)	Candidate assessment
77.15(256)	Program evaluation

CHAPTER 78
Reserved

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR
PREPARATION PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

79.1(256)	General statement
79.2(256)	Definitions
79.3(256)	Institutions affected
79.4(256)	Criteria for practitioner preparation programs
79.5(256)	Approval of programs
79.6(256)	Visiting teams
79.7(256)	Periodic reports
79.8(256)	Reevaluation of practitioner preparation programs
79.9(256)	Approval of program changes

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

79.10(256)	Governance and resources standard
79.11(256)	Diversity standard
79.12(256)	Faculty standard
79.13(256)	Assessment system and unit evaluation standard

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL PRACTITIONER PREPARATION
PROGRAMS FOR TEACHER CANDIDATES

79.14(256)	Teacher preparation clinical practice standard
79.15(256)	Teacher preparation candidate knowledge, skills and dispositions standard

DIVISION IV

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

- 79.16(256) Administrator preparation clinical practice standard
- 79.17(256) Administrator candidate knowledge, skills and dispositions standard
- 79.18 Reserved

DIVISION V

SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

- 79.19(256) Purpose
- 79.20(256) Clinical practice standard
- 79.21(256) Candidate knowledge, skills and dispositions standard

CHAPTER 80

STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

- 80.1(272) General statement
- 80.2(272) Definitions
- 80.3(272) Institutions affected
- 80.4(272) Criteria for Iowa paraeducator preparation programs
- 80.5(272) Approval of programs
- 80.6(272) Periodic reports
- 80.7(272) Reevaluation of paraeducator preparation programs
- 80.8(272) Approval of program changes
- 80.9(272) Organizational and resources standards
- 80.10(272) Diversity
- 80.11(272) Paraeducator candidate performance standards

CHAPTER 81

STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

- 81.1(256) Definitions
- 81.2(256) Institutions eligible to provide a school business official preparation program
- 81.3(256) Approval of programs
- 81.4(256) Governance and resources standard
- 81.5(256) Instructor standard
- 81.6(256) Assessment system and institution evaluation standard
- 81.7(256) School business official candidate knowledge and skills standards and criteria
- 81.8(256) School business official mentoring program
- 81.9(256) Periodic reports
- 81.10(256) Reevaluation of school business official preparation programs
- 81.11(256) Approval of program changes

CHAPTER 82

STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

- 82.1(272) Definitions
- 82.2(272) Organizations eligible to provide a school administration manager training program
- 82.3(272) Approval of training programs
- 82.4(272) Governance and resources standard
- 82.5(272) Trainer and coach standard
- 82.6(272) Assessment system and organization evaluation standard
- 82.7(272) School administration manager knowledge and skills standards and criteria
- 82.8(272) Periodic reports
- 82.9(272) Reevaluation of school administration manager programs
- 82.10(272) Approval of program changes and flexibility of programs
- 82.11(272) Fees

CHAPTER 83
TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

DIVISION I
GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND
TEACHER QUALITY PROGRAMS

- 83.1(284,284A) Purposes
83.2(284,284A) Definitions

DIVISION II
SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

- 83.3(284) Mentoring and induction program for beginning teachers
83.4(284) Iowa teaching standards and criteria
83.5(284) Evaluator approval training
83.6(284) Professional development for teachers
83.7(284) Teacher quality committees

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

- 83.8(284A) Administrator quality program
83.9(284A) Mentoring and induction program for administrators
83.10(284A) Iowa school leadership standards and criteria for administrators
83.11(284A) Evaluation
83.12(284A) Professional development of administrators

CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

- 84.1(256) Purpose
84.2(256) Definitions
84.3(256) Registration fee reimbursement program
84.4(256) NBC annual award
84.5(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award

CHAPTERS 85 to 93
Reserved

TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94
ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM

- 94.1(256) Purpose
94.2(256) Eligibility identification procedures
94.3(256) Grant award procedure
94.4(256) Application process
94.5(256) Request for proposals
94.6(256) Grant process
94.7(256) Awards contract
94.8(256) Notification of applicants
94.9(256) Grantee responsibility

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY
AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

- 95.1(256) Purpose
95.2(256) Definitions

95.3(256)	Equal employment opportunity standards
95.4(256)	Duties of boards of directors
95.5(256)	Plan components
95.6(256)	Dissemination
95.7(256)	Reports

TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE/LOCAL OPTION SALES AND
SERVICES TAX FOR SCHOOL INFRASTRUCTURE

96.1(423E,423F)	Definitions
96.2(423E,423F)	Reports to the department
96.3(423E,423F)	Combined actual enrollment
96.4(423E,423F)	Application and certificate of need process
96.5(423E,423F)	Review process
96.6(423E,423F)	Award process
96.7(423E,423F)	Applicant responsibilities
96.8(423E,423F)	Appeal of certificate denial

CHAPTER 97
SUPPLEMENTARY WEIGHTING

97.1(257)	Definitions
97.2(257)	Supplementary weighting plan
97.3(257)	Supplementary weighting plan for at-risk students
97.4(257)	Supplementary weighting plan for a regional academy
97.5(257)	Supplementary weighting plan for whole-grade sharing
97.6(257)	Supplementary weighting plan for ICN video services
97.7(257)	Supplementary weighting plan for operational services

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

98.1(256,257)	Definitions
98.2(256,257)	General finance
98.3 to 98.10	Reserved

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

98.11(257)	Categorical and noncategorical student counts
98.12(257,299A)	Home school assistance program
98.13(256C,257)	Statewide voluntary four-year-old preschool program
98.14(257)	Supplementary weighting
98.15(257)	Operational function sharing supplementary weighting
98.16(257,280)	Limited English proficiency (LEP) weighting
98.17(256B,257)	Special education weighting
98.18(257)	At-risk formula supplementary weighting
98.19(257)	Reorganization incentive weighting
98.20(257)	Gifted and talented program
98.21(257)	Returning dropout and dropout prevention program
98.22(257)	Use of the unexpended general fund balance
98.23(256D,257)	Iowa early intervention block grant, also known as early intervention supplement

98.24(257,284)	Teacher salary supplement
98.25	Reserved
98.26(257,284)	Educator quality professional development, also known as professional development supplement
98.27 to 98.39	Reserved

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

98.40(256,257,298A)	Grants in aid
98.41	Reserved
98.42(257,284)	Beginning teacher mentoring and induction program
98.43(257,284A)	Beginning administrator mentoring and induction program
98.44(257,301)	Nonpublic textbook services
98.45 to 98.59	Reserved

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670)	Levies and funds
98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670)	General fund
98.62(279,296,298,670)	Management fund
98.63(298)	Library levy fund
98.64(279,283,297,298)	Physical plant and equipment levy (PPEL) fund
98.65(276,300)	Public educational and recreational levy (PERL) fund
98.66(257,279,298A,565)	District support trust fund
98.67(257,279,298A,565)	Permanent funds
98.68(76,274,296,298,298A)	Debt service fund
98.69(76,273,298,298A,423E,423F)	Capital projects fund
98.70(279,280,298A)	Student activity fund
98.71(256B,257,298A)	Special education instruction fund
98.72(282,298A)	Juvenile home program instruction fund
98.73(283A,298A)	School nutrition fund
98.74(279,298A)	Child care and before- and after-school programs fund
98.75(298A)	Regular education preschool fund
98.76(298A)	Student construction fund
98.77(298A)	Other enterprise funds
98.78 to 98.81	Reserved
98.82(298A)	Internal service funds
98.83 to 98.91	Reserved
98.92(257,279,298A,565)	Private purpose trust funds
98.93(298A)	Other trust funds
98.94 to 98.100	Reserved
98.101(298A)	Agency funds
98.102 to 98.110	Reserved
98.111(24,29C,257,298A)	Emergency levy fund
98.112(275)	Equalization levy fund

CHAPTER 99
BUSINESS PROCEDURES AND DEADLINES

99.1(257)	Definitions
99.2(256,257,285,291)	Submission deadlines
99.3(257)	Good cause for late submission
99.4(24,256,257,291)	Budgets, accounting and reporting

CHAPTER 100

Reserved

TITLE XVII

PROTECTION OF CHILDREN

CHAPTER 101

Reserved

CHAPTER 102

PROCEDURES FOR CHARGING AND
INVESTIGATING INCIDENTS OF ABUSE
OF STUDENTS BY SCHOOL EMPLOYEES

- 102.1(280) Statement of intent and purpose
- 102.2(280) Definitions
- 102.3(280) Jurisdiction
- 102.4(280) Exceptions
- 102.5(280) Duties of school authorities
- 102.6(280) Filing of a report
- 102.7(280) Receipt of report
- 102.8(280) Duties of designated investigator—physical abuse allegations
- 102.9(280) Duties of designated investigator—sexual abuse allegations
- 102.10(280) Content of investigative report
- 102.11(280) Founded reports—designated investigator’s duties
- 102.12(280) Level-two investigator’s duties
- 102.13(280) Retention of records
- 102.14(280) Substantial compliance
- 102.15(280) Effective date

CHAPTER 103

CORPORAL PUNISHMENT BAN; RESTRAINT;
PHYSICAL CONFINEMENT AND DETENTION

- 103.1(256B,280) Purpose
- 103.2(256B,280) Ban on corporal punishment
- 103.3(256B,280) Exclusions
- 103.4(256B,280) Exceptions and privileges
- 103.5(256B,280) Reasonable force
- 103.6(256B,280) Physical confinement and detention
- 103.7(256B,280) Additional minimum mandatory procedures
- 103.8(256B,280) Additional provisions concerning physical restraint

CHAPTERS 104 to 119

Reserved

TITLE XVIII

EARLY CHILDHOOD

CHAPTER 120

EARLY ACCESS INTEGRATED SYSTEM OF
EARLY INTERVENTION SERVICES

DIVISION I

PURPOSE AND APPLICABILITY

- 120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services
- 120.2(34CFR303) Applicability of this chapter

120.3(34CFR303) Applicable federal regulations

DIVISION II
DEFINITIONS

- 120.4(34CFR303) Act
- 120.5(34CFR303) At-risk infant or toddler
- 120.6(34CFR303) Child
- 120.7(34CFR303) Consent
- 120.8(34CFR303) Council
- 120.9(34CFR303) Day
- 120.10(34CFR303) Developmental delay
- 120.11(34CFR303) Early intervention service program
- 120.12(34CFR303) Early intervention service provider
- 120.13(34CFR303) Early intervention services
- 120.14(34CFR303) Elementary school
- 120.15(34CFR303) Free appropriate public education
- 120.16(34CFR303) Health services
- 120.17(34CFR303) Homeless children
- 120.18(34CFR303) Include; including
- 120.19(34CFR303) Indian; Indian tribe
- 120.20(34CFR303) Individualized family service plan
- 120.21(34CFR303) Infant or toddler with a disability
- 120.22(34CFR303) Lead agency
- 120.23(34CFR303) Local educational agency
- 120.24(34CFR303) Multidisciplinary
- 120.25(34CFR303) Native language
- 120.26(34CFR303) Natural environments
- 120.27(34CFR303) Parent
- 120.28(34CFR303) Parent training and information center
- 120.29(34CFR303) Personally identifiable information
- 120.30(34CFR303) Public agency
- 120.31(34CFR303) Qualified personnel
- 120.32(34CFR303) Scientifically based research
- 120.33(34CFR303) Secretary
- 120.34(34CFR303) Service coordination services (case management)
- 120.35(34CFR303) State
- 120.36(34CFR303) State educational agency
- 120.37(34CFR303) Ward of the state
- 120.38(34CFR303) Other definitions used in this chapter
- 120.39 to 120.99 Reserved

DIVISION III

STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

- 120.100(34CFR303) General authority
- 120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act
- 120.102(34CFR303) State conformity with Part C of the Act
- 120.103 and 120.104 Reserved
- 120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities
- 120.106 to 120.109 Reserved
- 120.110(34CFR303) Minimum components of a statewide system
- 120.111(34CFR303) State definition of developmental delay
- 120.112(34CFR303) Availability of early intervention services
- 120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures

120.114(34CFR303)	Individualized family service plan (IFSP)
120.115(34CFR303)	Comprehensive child find system
120.116(34CFR303)	Public awareness program
120.117(34CFR303)	Central directory
120.118(34CFR303)	Comprehensive system of personnel development (CSPD)
120.119(34CFR303)	Personnel standards
120.120(34CFR303)	Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities
120.121(34CFR303)	Policy for contracting or otherwise arranging for services
120.122(34CFR303)	Reimbursement procedures
120.123(34CFR303)	Procedural safeguards
120.124(34CFR303)	Data collection
120.125(34CFR303)	State interagency coordinating council
120.126(34CFR303)	Early intervention services in natural environments
120.127 to 120.199	Reserved

DIVISION IV

STATE APPLICATION AND ASSURANCES

120.200(34CFR303)	State application and assurances
120.201(34CFR303)	Designation of lead agency
120.202(34CFR303)	Certification regarding financial responsibility
120.203(34CFR303)	Statewide system and description of services
120.204	Reserved
120.205(34CFR303)	Description of use of funds
120.206(34CFR303)	Referral policies for specific children
120.207(34CFR303)	Availability of resources
120.208(34CFR303)	Public participation policies and procedures
120.209(34CFR303)	Transition to preschool and other programs
120.210(34CFR303)	Coordination with Head Start and Early Head Start, early education, and child care programs
120.211	Reserved
120.212(34CFR303)	Additional information and assurances
120.213 to 120.219	Reserved
120.220(34CFR303)	Assurances satisfactory to the Secretary
120.221(34CFR303)	Expenditure of funds
120.222(34CFR303)	Payor of last resort
120.223(34CFR303)	Control of funds and property
120.224(34CFR303)	Reports and records
120.225(34CFR303)	Prohibition against supplanting; indirect costs
120.226(34CFR303)	Fiscal control
120.227(34CFR303)	Traditionally underserved groups
120.228(34CFR303)	Subsequent state application and modifications of application
120.229 to 120.299	Reserved

DIVISION V

CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

120.300(34CFR303)	General
120.301(34CFR303)	Public awareness program—information for parents
120.302(34CFR303)	Comprehensive child find system
120.303(34CFR303)	Referral procedures
120.304 to 120.309	Reserved
120.310(34CFR303)	Post-referral timeline (45 calendar days)
120.311 to 120.319	Reserved
120.320(34CFR303)	Screening procedures

120.321(34CFR303)	Evaluation of the child and assessment of the child and family
120.322(34CFR303)	Determination that a child is not eligible
120.323 to 120.339	Reserved
120.340(34CFR303)	Individualized family service plan—general
120.341	Reserved
120.342(34CFR303)	Procedures for IFSP development, review, and evaluation
120.343(34CFR303)	IFSP team meeting and periodic review
120.344(34CFR303)	Content of an IFSP
120.345(34CFR303)	Interim IFSPs—provision of services before evaluations and assessments are completed
120.346(34CFR303)	Responsibility and accountability
120.347 to 120.399	Reserved

DIVISION VI
PROCEDURAL SAFEGUARDS

120.400(34CFR303)	General responsibility of lead agency for procedural safeguards
120.401(34CFR303)	Confidentiality and opportunity to examine records
120.402(34CFR303)	Confidentiality
120.403(34CFR303)	Definitions
120.404(34CFR303)	Notice to parents
120.405(34CFR303)	Access rights
120.406(34CFR303)	Record of access
120.407(34CFR303)	Records on more than one child
120.408(34CFR303)	List of types and locations of information
120.409(34CFR303)	Fees for records
120.410(34CFR303)	Amendment of records at a parent's request
120.411(34CFR303)	Opportunity for a hearing
120.412(34CFR303)	Result of hearing
120.413(34CFR303)	Hearing procedures
120.414(34CFR303)	Consent prior to disclosure or use
120.415(34CFR303)	Safeguards
120.416(34CFR303)	Destruction of information
120.417(34CFR303)	Enforcement
120.418 and 120.419	Reserved
120.420(34CFR303)	Parental consent and ability to decline services
120.421(34CFR303)	Prior written notice and procedural safeguards notice
120.422(34CFR303)	Surrogate parents
120.423 to 120.429	Reserved
120.430(34CFR303)	State dispute resolution options
120.431(34CFR303)	Mediation
120.432(34CFR303)	Adoption of state complaint procedures
120.433(34CFR303)	Minimum state complaint procedures
120.434(34CFR303)	Filing a complaint
120.435(34CFR303)	Appointment of an administrative law judge
120.436(34CFR303)	Parental rights in due process hearing proceedings
120.437(34CFR303)	Convenience of hearings and timelines
120.438(34CFR303)	Civil action
120.439(34CFR303)	Limitation of actions
120.440(34CFR303)	Rule of construction
120.441(34CFR303)	Attorney fees
120.442 to 120.448	Reserved
120.449(34CFR303)	State enforcement mechanisms
120.450 to 120.499	Reserved

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

120.500(34CFR303)	Use of funds, payor of last resort, and system of payments
120.501(34CFR303)	Permissive use of funds by the department
120.502 to 120.509	Reserved
120.510(34CFR303)	Payor of last resort
120.511(34CFR303)	Methods to ensure the provision of, and financial responsibility for, Early ACCESS services
120.512 to 120.519	Reserved
120.520(34CFR303)	Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services
120.521(34CFR303)	System of payments and fees
120.522 to 120.599	Reserved

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

120.600(34CFR303)	Establishment of council
120.601(34CFR303)	Composition
120.602(34CFR303)	Meetings
120.603(34CFR303)	Use of funds by the council
120.604(34CFR303)	Functions of the council; required duties
120.605(34CFR303)	Authorized activities by the council
120.606 to 120.699	Reserved

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

120.700(34CFR303)	State monitoring and enforcement
120.701(34CFR303)	State performance plans and data collection
120.702(34CFR303)	State use of targets and reporting
120.703(34CFR303)	Department review and determination regarding EIS program performance
120.704(34CFR303)	Enforcement
120.705(34CFR303)	Withholding funds
120.706(34CFR303)	Public attention
120.707	Reserved
120.708(34CFR303)	State enforcement
120.709(34CFR303)	State consideration of other state or federal laws
120.710 to 120.719	Reserved
120.720(34CFR303)	Data requirements—general
120.721(34CFR303)	Annual report of children served—report requirement
120.722(34CFR303)	Data reporting
120.723(34CFR303)	Annual report of children served—certification
120.724(34CFR303)	Annual report of children served—other responsibilities of the department
120.725 to 120.800	Reserved

DIVISION X
OTHER PROVISIONS

120.801(34CFR303)	Early ACCESS system—state level
120.802(34CFR303)	Interagency service planning
120.803(34CFR303)	System-level disputes
120.804(34CFR303)	Early ACCESS system—regional and community levels
120.805(34CFR303)	Provision of year-round services
120.806(34CFR303)	Evaluation and improvement
120.807(34CFR303)	Research
120.808(34CFR303)	Records and reports

120.809(34CFR303)	Information for department
120.810(34CFR303)	Public information
120.811(34CFR303)	Dispute resolution: practice before mediators and administrative law judges
120.812(34CFR303)	References to federal law
120.813(34CFR303)	Severability

CHAPTER 44
SCHOOL BUSES

[Prior to 8/10/88, see Public Instruction Department[670] Ch 23]

281—44.1(285) Requirements for manufacturers. In order to protect both the boards of education and manufacturers of school transportation vehicles and equipment from misunderstanding and confusion, all manufacturers shall provide equipment meeting all Iowa vehicle construction requirements described in this chapter as well as all applicable federal motor vehicle safety standards, which include but are not limited to the following:

- 101—Control location, identification, and illumination.
- 102—Transmission shift lever sequence, starter interlock, and transmission braking effect.
- 103—Windshield defrosting and defogging systems.
- 104—Windshield wiping and washing systems.
- 105—Hydraulic braking systems.
- 106—Brake hoses.
- 107—Reflecting surfaces.
- 108—Lamps, reflective devices, and associated equipment.
- 109—New pneumatic tires.
- 110—Tire selection and rims.
- 111—Rearview mirrors.
- 113—Hood latch systems.
- 116—Motor vehicle brake fluids.
- 119—New pneumatic tires for vehicles other than passenger cars.
- 120—Tire selection and rims for motor vehicles other than passenger cars.
- 121—Air brake systems.
- 124—Accelerator control systems.
- 131—School bus pedestrian safety devices.
- 205—Glazing materials.
- 206—Door locks and door retention components.
- 207—Seating systems.
- 208—Occupant crash protection.
- 209—Seat belt assemblies.
- 210—Seat belt assembly anchorages.
- 217—Bus window retention and release.
- 219—Windshield zone intrusion for vehicles with a GVWR of 10,000 pounds or less.
- 220—School bus rollover protection.
- 221—School bus body joint strength.
- 222—School bus passenger seating and crash protection.
- 301—Fuel system integrity.
- 302—Flammability of interior materials.
- 303—Fuel system integrity of compressed natural gas vehicles.
- 304—Compressed natural gas fuel container integrity.

Refer to the Appendix for additional information on certain federal motor vehicle safety standards (FMVSS) requirements.

281—44.2(285) School bus—type classifications. A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, national school bus yellow (NSBY) paint, and the legend “School Bus.”

44.2(1) Type A. A Type A school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver’s door. This definition includes two classifications: Type

A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

44.2(2) Type B. A Type B school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

44.2(3) Type C. A Type C school bus, also known as a conventional school bus, is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. This type of school bus also includes the cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

44.2(4) Type D. A Type D school bus, also known as a rear or front engine transit-style school bus, is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

44.2(5) Type III. Type III vehicles are not regular school buses but nonetheless are used to transport students in a school-related context and may be marked as a “school bus.” A Type III vehicle is a passenger car (including a minivan, SUV, or station wagon) or van. The difference between a family automobile and an equivalent Type III vehicle is not the vehicle itself, but rather its use: Type III vehicles are used by schools for purposes of pupil transportation. To qualify as a Type III vehicle, the vehicle must carry a maximum of nine or fewer people, including the driver, and weigh 10,000 pounds or less.

44.2(6) Specially equipped. A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

44.2(7) Multifunction school activity bus (MFSAB). A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). MFSABs are not allowed for use by schools or school districts in the state of Iowa.

[ARC 1489C, IAB 6/11/14, effective 7/16/14]

281—44.3(285) School bus body and chassis specifications.

44.3(1) Air cleaner.

a. The engine air intake cleaning system shall be furnished and properly installed by the chassis manufacturer to meet engine manufacturer’s specifications.

b. The intake air system for diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

44.3(2) Aisle.

a. All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles shall be unobstructed at all times by any type of barrier, seat, wheelchair, tie-down, or other object(s), with the exception of a flip seat that is installed and occupied at a side emergency door position. The track of a track-seating system is exempt from this requirement. A flip seat in the unoccupied (up) position shall not obstruct the 12-inch minimum aisle to any side emergency door.

b. The seat backs shall be slanted sufficiently to give aisle clearance of 15 inches at the top of the seat backs.

44.3(3) Alternator.

a. All alternators shall be a minimum of 130 amperes while maintaining a minimum of 50 amperes while at the manufacturer’s suggested idle speed.

b. All Type C and Type D buses shall be equipped with a heavy-duty truck or bus-type alternator meeting SAE J180 or incorporating a pad-type mounting.

44.3(4) Axles. The front and rear axle and suspension systems shall have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

44.3(5) Backup warning alarm. An automatic audible alarm shall be installed behind the rear axle on every school bus/vehicle and shall comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

44.3(6) Battery compartment.

- a. Battery(ies) shall be furnished by the manufacturer.
- b. Battery(ies) shall be mounted in the body skirt of the vehicle and shall be accessible for convenient servicing from outside the bus. The manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray with a safety stop to prevent the battery(ies) from dropping to the ground at the outermost extremity of tray travel.
- c. The battery compartment door or cover shall be hinged at the top, bottom or forward side of the door. When hinged at the top, a fastening device shall be provided which will secure the door in an open position. The door or cover over the compartment opening shall completely cover and, as completely as practical, seal the opening and shall be secured by an adequate and conveniently operated latch or other type of fastener to prevent free leakage of the battery contents into the passenger compartment should the vehicle overturn. Battery cables installed by the manufacturer shall meet SAE requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend and to allow some slack in the cables. In Type A buses, if batteries cannot be installed under the hood, a battery compartment is required.
- d. The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) shall be covered with a rubber matting or other impact-resistant nonconductive material. The matting shall be a minimum of 1/8-inch thick and cover the entire top inside surface of the battery box. The matting shall be securely installed to maintain its position at all times.
- e. The word "BATTERY" in 2-inch black letters shall be placed on the door covering the battery opening.

44.3(7) Battery system. A 12-volt battery system tested at 0 degrees Fahrenheit shall be provided which meets or exceeds the following capacity ratings:

- a. Gasoline engines (greater than 10,000 pounds GVWR): 150 minutes reserve and 500 cold cranking ampere capacity.
- b. Gasoline engines (10,000 pounds GVWR or less): 125 minutes reserve and 450 cold cranking ampere capacity.
- c. Diesel engines (all): 200 minutes reserve and 1,000 cold cranking ampere capacity, or a cold cranking ampere capacity not less than the engine manufacturer's minimum requirements, whichever is greater.

44.3(8) Body sizes. Type A vehicles may be purchased with manufacturer's recommended seating capacities when the chassis is manufactured with rear dual tires.

44.3(9) Brakes.

- a. *Brakes, all, general requirements.*
 - (1) The chassis brake system shall conform to the provisions of FMVSS No. 105, Hydraulic and Electric Brake Systems, No. 106, Brake Hoses, and No. 121, Air Brake Systems, as applicable.
 - (2) The antilock brake system (ABS), provided in accordance with FMVSS No. 105 or No. 121, shall provide wheel speed sensors for each front wheel and for each wheel on at least one rear axle. The system shall provide antilock braking performance for each wheel equipped with sensors (Four Channel System).
 - (3) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).
 - (4) The brake lines, booster-assist lines, and control cables shall be protected from excessive heat, vibration and corrosion and installed in a manner which prevents chafing.
 - (5) The parking brake system for either air or hydraulic service brake systems may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated 5th percentile female driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the "park" position.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the “off” position, the parking brake cannot be released until the key switch is turned back to the “on” position.

b. Hydraulic brakes, general requirements. Buses using a hydraulic-assist brake shall be equipped with audible and visible warning signals that provide a continuous warning to the driver indicating a loss of fluid flow from the primary source or a failure of the backup pump system.

c. Air brakes, general requirements.

(1) The air pressure supply system shall include a desiccant-type air dryer installed according to the manufacturer’s recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The manufacturer shall provide an accessory outlet for other air-operated systems installed in or on the bus. This outlet shall include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver’s license (CDL) pretrip inspection requirements shall be provided in the instrument panel.

(4) All air brake-equipped buses may be equipped with a service brake interlock. If the bus is equipped with a service brake interlock, the parking brake cannot be released until the brake pedal is depressed.

(5) Air brake systems shall include a system for anticomponding of the service brakes and parking brakes.

(6) Air brakes shall have a warning device that is both visible and audible and that provides warning to the driver whenever the air pressure falls below the level where warnings are required under FMVSS No. 121.

d. Brakes, all, specific requirements.

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals readily audible and visible to the driver. The signal shall give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum available in the system for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in psi or the inches of mercury available for the operation of the brakes.

(3) Buses using a hydraulic-assist brake system shall be equipped with warning signals readily audible and visible to the driver. The warning signal shall provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

(4) Brake system reservoirs.

1. Every brake system which employs air or vacuum shall include a reservoir of the following capacity, where applicable, for brake operation: Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall adequately ensure a full-stroke application so that loss in vacuum shall not exceed 30 percent with the engine off. Brake systems on gas-powered engines shall include suitable and convenient connections for the installation of a separate vacuum reservoir.

2. Any brake system with a dry reservoir shall be equipped with a check valve or equivalent device to ensure that, in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

3. Connection for auxiliary accessory reservoir. The brake system shall include a suitable and convenient connection for installation of an auxiliary air or vacuum reservoir by the bus manufacturer.

(5) An air brake system is required on every chassis meeting one or more of the following:

1. Wheelbase equal to or greater than 274 inches.

2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer's seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(6) An air brake system shall comply with the following system and component designs:

1. The system cannot be of wedge design.

2. The system shall include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system shall be self-purging and capable of removing oil, dirt, and moisture. The dryer system shall also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler shall provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer. An automatic moisture ejector or "spitter valve" does not meet the above requirement.

3. Automatic slack adjusters are required to be installed at all wheel positions.

4. The air compressor shall produce a minimum output of 12.0 cubic feet per minute (CFM).

(7) Vehicles with 10,000 pounds GVWR or less shall be equipped with a hydraulic, dual-braking system of manufacturer's standard, with power assist.

(8) Antilock brake systems for either air or hydraulic brakes shall include control of all axles in compliance with FMVSS 105 or 121.

44.3(10) Bumper, front.

a. All school buses shall be equipped with a front bumper painted glossy black.

b. The front bumper on buses of Type A-2 (with GVWR greater than 14,500 pounds), Type B, Type C, and Type D shall be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). The front bumper shall extend beyond the forward-most part of the body, grille, hood and fenders and shall extend to the outer edges of the fenders at the bumper's top line. Type A buses having a GVWR of 14,500 pounds or less may be equipped with an original equipment manufacturer (OEM)-supplied front bumper. The front bumper shall be of sufficient strength to permit its being pushed by another vehicle on a smooth surface with a 5 degree (8.7 percent) grade, without permanent distortion to the bumper, chassis or body. The contact point on the front bumper is intended to be between the frame rails, with as wide a contact area as possible. If the front bumper is used for lifting, the contact points shall be under the bumper attachments to the frame rail brackets unless the manufacturer specifies different lifting points in the owner's manual. Contact and lifting pressures should be applied simultaneously at both lifting points.

c. The front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight, per paragraph 44.3(10) "b," without permanent distortion to the bumper, chassis or body.

d. The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow hooks/eyes. For the purpose of meeting this specification, the bus shall be empty and positioned on a level, hard surface and both tow hooks/eyes shall share the load equally.

e. Tow eyes or hooks are required on Type B, C, and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the bus manufacturer so as not to project beyond the front bumper.

f. An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:

(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

1. 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).

2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).

3. 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 pounds GVWR or more).

The manufacturer of the energy-absorbing bumper system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(11) Bumper, rear.

- a. All school buses shall be equipped with a rear bumper painted glossy black.
- b. The rear bumper shall be pressed steel channel or equivalent material, at least 3/16 inches thick and shall be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses. The rear bumper shall be of sufficient strength to permit its being pushed by another vehicle without permanent distortion to the bumper, body, or chassis.
- c. The rear bumper shall be wrapped around the back corners of the bus. It shall extend forward at least 12 inches, measured from the rear-most point of the body at the floor line and shall be flush-mounted to the body side or protected with an end panel.
- d. The rear bumper shall be attached to the chassis frame in such a manner that the bumper may be easily removed. It shall be braced so as to resist deformation of the bumper resulting from a rear or side impact. It shall be designed so as to discourage the hitching of rides.
- e. The bumper shall extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.
- f. Additions or alterations to the rear bumper, including the installation of trailer hitches, are prohibited.
- g. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:
 - (1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body; and
 - (2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:
 1. 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
 2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
 3. 5.0 mph center impact (Part 581, CFR Title 49).

The manufacturer of the energy-absorbing system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(12) Certification. The manufacturer(s) shall, upon request, certify to the Iowa department of education that the manufacturer's product(s) meets Iowa minimum standards on items not covered by FMVSS certification requirements of 49 CFR Part 567.

44.3(13) Color.

- a. Chassis shall be black. Body cowl, hood, and fenders shall be national school bus yellow. The flat top surface of the hood may be nonreflective national school bus yellow; black is not acceptable.
- b. Wheels and rims shall be gray, black, or national school bus yellow.
- c. The grille must be gray, black, or national school bus yellow. Chrome is not acceptable.
- d. The school bus body shall be painted national school bus yellow. (See color standard, Appendix B, National School Transportation Specifications and Procedures Manual 2010, available from Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.)
- e. The body exterior trim shall be glossy black, including the rear bumper, exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. As an alternative, the rear bumper may be covered with a black retroreflective material as described in subrule 44.3(52). When the bus number is placed on the front or rear bumper, the number shall be national school bus yellow.
- f. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps shall remain national school bus yellow.
- g. Commercial advertising is forbidden on the exterior and in the interior of all school buses.

44.3(14) Construction.

- a. The school bus body shall be constructed of materials certified to be durable under normal operating conditions and shall meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.
- b. Construction shall be reasonably dustproof and watertight.

c. Body joints present in that portion of the Type A school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

d. A flat floor system featuring no wheel wells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

(1) The inside height of the body shall remain at least 72 inches, when measured in accordance with subrule 44.3(41) when this option is installed.

(2) If this option utilizes a raised floor that is stepped up behind the driver's area, the forward edge of the aisle shall have a white or yellow stripe and be labeled "Step Up" visible to passengers upon entering the aisle; and a label "Step Down" shall be visible to passengers as they exit the aisle. Minimum headroom of 72 inches shall be maintained at all times.

(3) A flat floor design shall provide for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances shall be maintained in accordance with these rules.

44.3(15) Crossing control arms.

a. Type A, B, and C school buses shall be equipped with a crossing control arm which is mounted on the right side of the front bumper and which shall not open more than 90 degrees. This requirement does not apply to Type D vehicles having transit-style design features.

b. The crossing control arm shall incorporate a system of quick-disconnect connectors (electrical, vacuum, or air) at the crossing control arm base unit and shall be easily removable to allow for towing of the bus.

c. All components of the crossing control arm and all connections shall be weatherproofed.

d. The crossing control arm shall be constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.3(42).

e. There shall be no sharp edges or projections that could cause hazard or injury to students.

f. The crossing control arm shall extend a minimum of 70 inches from the front bumper when in the extended position. This measurement shall be taken from the arm assembly attachment point on the bumper. However, the crossing control arm shall not extend past the ends of the bumper when in the stowed position.

g. The crossing control arm shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

h. The crossing control arm system shall be designed to operate in extreme weather conditions, including freezing rain, snow and temperatures below 0 degrees Fahrenheit, without malfunctioning. The crossing control arm itself shall be constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

i. To ensure that the unit mounts flush and operates properly, the chassis bumper mounting bracket must be designed for the specific model chassis on which it will be mounted.

j. A single, cycle-interrupt switch with automatic reset shall be installed in the driver's compartment and shall be accessible to the driver from the driver's seat.

k. The assembly may include a device attached to the bumper near the end of the arm to automatically retain the arm while in the stowed position. That device shall not interfere with normal operations of the crossing control arm.

44.3(16) Daytime running lights (DRL). See subrule 44.3(33).

44.3(17) Defrosters.

a. Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system shall conform to SAE Standard J381.

c. The defroster and defogging system shall be capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems. See also subrule 44.3(80).

e. Portable heaters shall not be used.

44.3(18) Doors and exits.

a. Service door.

(1) The service door shall be heavy-duty power- or manually operated under the control of the driver and shall be designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts shall come together to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door must provide for manual operation in case of power failure.

(2) The service door shall be located on the right side of the bus opposite the driver and within the driver's direct view and shall remain closed anytime the vehicle is in motion.

(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. Type A vehicles shall have a minimum opening of 1,200 square inches.

(4) The service door shall be of split or jackknife type. (Split door includes any sectioned door which divides and opens inward or outward.) If one section of the split door opens inward and the other opens outward, the front section shall open outward.

(5) Lower as well as upper panels shall be of approved safety glass. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door.

(6) The upper window panels of the service door shall be of insulated double glass. This standard applies to all vehicles equipped with a service door as described in paragraph 44.3(18) "a."

(7) Vertical closing edges on split or folding entrance doors shall be equipped with flexible material to protect children's fingers.

(8) There shall be no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard left side (driver's side) door.

(9) All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend horizontally the full width of the door opening.

(10) Door hinges shall be secured to the body without the use of metal screws.

(11) There shall be no grab handle installed on the exterior of the service door.

(12) A door-locking mechanism may be installed in accordance with subrule 44.3(79).

(13) On power-operated service doors, the emergency release valve, switch or device to release the service door must be placed above or to the left or right of the service door and be clearly labeled. The emergency release valve, switch or device shall work in the absence of power.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits shall comply with the requirements of FMVSS 217 and any of the requirements of these rules that exceed FMVSS 217.

(2) The upper portion of the emergency door shall be equipped with approved safety glazing, the exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Type A-2, B, C and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend the full width of the door opening.

(5) There shall be no obstruction higher than ¼ inch across the bottom of any emergency door opening.

c. Emergency exit requirements.

(1) Any installed emergency exit shall comply with the design and performance requirements of FMVSS 217, Bus Emergency Exits and Window Retention and Release, applicable to that type of exit,

whether or not that exit is required by FMVSS 217, and shall comply with any of the requirements of these rules that exceed FMVSS 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they shall be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

1. 0 to 42 passengers = 1 emergency exit per side and 1 roof hatch.
2. 43 to 78 passengers = 2 emergency exits per side and 2 roof hatches.
3. 79 to 90 passengers = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS 217 may be included to comprise the total number of exits specified. All roof hatches shall have design features as specified in subrule 44.3(80).

(3) Side and rear emergency doors and each emergency window exit shall be equipped with an audible warning device.

(4) Roof hatches shall be equipped with an audible warning device.

(5) Rear emergency windows on Type D rear-engine buses shall have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, shall be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label shall be at least 1 inch high.

44.3(19) Drive shaft. The drive shaft shall be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

44.3(20) Driver's compartment.

a. The driver's seat supplied by the body company shall be a high-back seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flange-headed nuts.

b. The driver's seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95 percent of the male and female adult population.

c. See also subrule 44.3(56).

d. A driver's document compartment or pouch shall be provided. The document compartment or pouch shall measure at least 17 inches × 12 inches × 4 inches. If a document pouch, rather than a covered compartment, is provided, it shall be located on the barrier behind the driver. It shall be constructed of a material of equal durability to that of the covering on the barrier and shall have a lid or cover with a latching device to hold the cover or lid closed.

e. A manual noise suppression switch shall be required and located in the control panel within easy reach of the driver while seated. The switch shall be labeled. This switch shall be an on/off type that deactivates body equipment that produces noise, including, at least, the AM/FM radio, heaters, air conditioners, fans, and defrosters. This switch shall not deactivate safety systems, such as windshield wipers, lighting systems, or two-way radio communication systems.

44.3(21) Electrical system. See subrule 44.3(85).

44.3(22) Emergency equipment.

a. All Type A, B, C, and D school buses shall be equipped with the following emergency equipment: first-aid kit, fire extinguisher, webbing cutter, body fluid cleanup kit, and triangular warning devices.

b. All emergency equipment shall be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment, with the exception of the webbing cutter mounted

in a location accessible to the driver, may be mounted in an enclosed compartment provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained therein.

c. Fire extinguishers shall meet the following requirements:

(1) The bus shall be equipped with at least one five-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher shall be located in the driver's compartment readily accessible to the driver and passengers and shall be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) A calibrated or marked gauge shall be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and shall be easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.

(3) The fire extinguisher shall have a rating of 2A-10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.

(4) All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association requirements.

(5) Each extinguisher shall have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First-aid kit.

(1) The bus shall have a removable moistureproof and dustproof first-aid kit in an accessible place in the driver's compartment. It shall be mounted and secured, and identified as a first-aid kit. The location for the first-aid kit shall be marked.

(2) Type III vehicles used as school buses shall be equipped with a ten-unit first-aid kit containing the following items:

- 1 1-inch adhesive compress.
- 1 2-inch bandage compress.
- 1 4-inch bandage compress.
- 1 3-inch × 3-inch plain gauze pad.
- 1 gauze roller bandage (4-inch × 5 yards).
- 1 plain absorbent gauze compress (2 piece, 18-inch × 36-inch).
- 1 plain absorbent gauze compress (24-inch × 72-inch).
- 2 triangular bandages.
- 1 wire splint (instant splints may be substituted).

(3) A first-aid kit meeting the national standards (National Standards First-Aid Kit) (per NCST – National Congress on School Transportation Specifications and Procedures 2010 – first-aid kit) and containing the following items is required on all Type A, B, C and D school buses:

- 2 1-inch × 2½-yard adhesive tape rolls.
- 24 3-inch × 3-inch sterile gauze pads.
- 100 ¾-inch × 3-inch adhesive bandages.
- 8 2-inch bandage compresses.
- 10 3-inch bandage compresses.
- 2 2-inch × 6-foot sterile gauze roller bandages.
- 2 39-inch × 35-inch × 54-inch nonsterile triangular bandages with two safety pins.
- 3 36-inch × 36-inch sterile gauze pads.
- 3 sterile eye pads.
- 1 pair medical examination gloves.
- 1 mouth-to-mouth airway.

e. Body fluid cleanup kit. Each bus shall be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container which includes the following items:

- (1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;
- (2) A fully disposable wiping cloth;
- (3) A water-resistant spatula;
- (4) Step-by-step directions;

- (5) Absorbent material with odor counteractant;
- (6) Two pairs of gloves (latex);
- (7) One package towelettes;
- (8) A discard bag (nonlabeled paper bag with a plastic liner and a twist tie). This bag shall be approximately 4 inches × 6 inches × 14 inches and shall be of a nonsafety color (i.e., the bag shall not be red, orange, or yellow). The kit shall be mounted by a method that will retain the kit in place during normal school bus operation and shall be removable without the use of tools. The kit container shall be sealed with a breakable, nonreusable seal and must be accessible to the driver.

f. Triangular warning devices. Each school bus shall contain at least three reflectorized triangle road warning devices mounted in an accessible place. These devices must meet requirements in FMVSS 125.

g. Each bus shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in an easily detachable manner and in a location accessible to the seated driver.

h. Axes are not allowed.

44.3(23) Exhaust system.

a. The exhaust pipe, muffler and tailpipe shall be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

b. The tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

c. Chassis manufacturers shall furnish an exhaust system with tailpipe of sufficient length to extend at least 5 inches beyond the end of the chassis frame to the vertical line of the rear end of the body, but not beyond the rear bumper. The exhaust may exit at the left side or rear of the bus body provided that the exit is no more than 18 inches forward of the front edge of the rear wheelhouse opening. If designed to exit to the left side of the bus, the tailpipe shall extend at least 48.5 inches (51.5 inches if the body is to be 102 inches wide) outboard from the chassis centerline. Final positioning shall result in the exhaust system's extending to, but not beyond, the body limits on the left side of the bus.

d. On Type A-1 chassis greater than 15,000 pounds GVWR, Type C and Type D vehicles, the tailpipe shall not exit beneath a fuel fill or emergency door exit.

e. On Type A-2 and Type B chassis of 15,000 pounds GVWR or less, the tailpipe may be furnished with the manufacturer's standard tailpipe configuration.

f. The exhaust system on a chassis shall be adequately insulated from the fuel system.

g. The muffler shall be constructed of corrosion-resistant material.

h. The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

i. The tailpipe shall not exit beneath the fuel fill, lift door or emergency door.

44.3(24) Fenders, front and hood. This subrule does not apply to Type A or D vehicles.

a. The total spread of outer edges of front fenders, measured at the fender line, shall exceed the total spread of front tires when the front wheels are in the straight-ahead position.

b. Front fenders shall be properly braced and free from any body attachment.

c. Chassis sheet metal shall not extend beyond the rear face of the cowl.

d. Front fenders and hood may be of manufacturer's standard material and construction.

e. The hood shall not require more than 20 pounds of force to open and shall include design features to secure the hood in an open position.

44.3(25) Floor insulation and covering.

a. The floor structure of Type A, B, C and D school buses shall be covered with an insulating layer of either a 5-ply minimum 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges shall be sealed.

b. Type A buses may be equipped with a minimum 1/2-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhousings, driver's compartment and toeboard, shall be covered with an elastomer floor covering having a minimum overall thickness of 1/8 inch and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. The floor covering of the driver's area and toeboard area on all Type A buses may be the manufacturer's standard flooring and floor covering.

d. The floor covering in aisles of all buses shall be of a ribbed or other raised-pattern elastomer, having a coefficient of friction of 0.85, using ASTM 1894 or 0.65 using ASTM 2047, and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. Minimum overall thickness shall be 3/16 inch measured from tops of ribs.

e. Floor covering must be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of a type recommended by the manufacturer of the floor-covering material. All seams must be sealed with waterproof sealer.

f. On Type B, C and D buses, access to the fuel tank sending unit shall be provided. The access opening shall be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body shall be capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate shall seal out dust, moisture and exhaust fumes. This plate shall not be installed under flooring material.

g. Cove molding or watertight sealant shall be used along the sidewalls and rear corners. All joints or seams in the floor covering shall be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

44.3(26) Frame.

a. The frame or equivalent shall have design and strength characteristics corresponding at least to standard practice for trucks of the same general load characteristics which are used for highway service.

b. Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification.

c. Extensions of frame lengths are permissible only when alterations are behind the rear hanger of the rear spring or in front of the front hanger of front spring and shall not be for the purpose of extending the wheelbase.

d. Holes in top or bottom flanges or side units of the frame and welding to the frame shall not be permitted except as provided or accepted by the chassis manufacturer.

e. Frame lengths shall be established in accordance with the design criteria for the complete vehicle.

44.3(27) Fuel system.

a. All fuel tanks, including auxiliary fuel tanks, fuel tank filler pipes, and fuel tank connections shall conform to all applicable FMVSS at the date of manufacture and shall be installed in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

b. On all Type B, C, and D vehicles, the fuel tank shall comply with FMVSS 301, Fuel System Integrity, and with Federal Motor Carrier Safety Regulations, Section 393.67, paragraphs (c) through (f), with reference to material and method of construction, leak testing and certification. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

c. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity shall be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less shall be equipped with at least one fuel tank of 30-gallon minimum capacity, as provided and installed by the manufacturer.

d. The fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks shall be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

e. Fuel filtration shall be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter shall be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one engine-mounted fuel filter with water/fuel separator shall be supplied and installed by the engine manufacturer.

f. The actual draw capacity of each fuel tank shall be 83 percent of the tank capacity.

g. Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMTC School Bus Design Objectives, August 1996 edition.

44.3(28) Fuel system, alternative fuels. An alternative fuel is defined as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, biodiesel, soydiesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel shall meet the following requirements:

a. Chassis shall meet all standards of this rule.

b. Chassis shall meet all applicable FMVSS standards including, but not limited to, the fuel system integrity standards of FMVSS 301 or FMVSS 303 and FMVSS 304.

c. Original equipment manufacturers (OEMs) and conversion systems using compressed natural gas (CNG) shall comply with NFPA Standard 52, “Compressed Natural Gas Vehicular Fuel Systems,” in effect at the time of installation. Fuel systems using liquefied petroleum gas (LPG) shall comply with the NFPA Standard 58, “Liquefied Petroleum Gases Engine Fuel Systems,” in effect at the time of installation.

d. All alternative fuel buses shall travel a loaded range of not less than 200 miles, except those powered by electricity, which shall travel not less than 80 miles.

e. Liquefied natural gas (LNG)-powered buses shall comply with NFPA Standard 57, “Liquefied Natural Gas Vehicular-Fueled Systems,” and be equipped with an interior/exterior gas detection system. All natural gas-powered buses shall be equipped with a fire detection and suppression system.

f. All materials and assemblies used to transfer or store alternative fuels shall be installed outside the passenger/driver compartment.

g. The total weight shall not exceed the GVWR when loaded to rated capacity.

h. The manufacturer supplying the alternative fuel equipment must provide the owner and operator with adequate training and certification in fueling procedures, scheduled maintenance, troubleshooting, and repair of alternative fuel equipment.

i. All fueling equipment shall be designed specifically for fueling motor vehicles and shall be certified by the manufacturer as meeting all applicable federal, state and industry standards.

j. All on-board fuel supply containers shall meet all appropriate requirements of the ASME code, the DOT regulations, or applicable FMVSS and NFPA standards.

k. All fuel supply containers shall be securely mounted to withstand a static force of eight times their weight in any direction.

l. All safety devices that may discharge to the atmosphere shall be vented to the outside of the vehicle. The discharge line from the safety relief valve on all school buses shall be located in a manner appropriate to the characteristics of the alternative fuel. Discharge lines shall not pass through the passenger compartment. Discharge lines shall be kept clear with flapper-valve or other device which will allow low-pressure discharge but prevent clogging by foreign matter or insects.

m. A positive, quick-acting ($\frac{1}{4}$ turn), shut-off control valve shall be installed in the gaseous fuel supply lines as close to the fuel supply containers as possible. The controls for this valve shall be placed in a location easily operable from the exterior of the vehicle. The location of the valve control shall be clearly marked on the exterior surface of the bus.

n. A grounding system shall be required for grounding of the fuel system during maintenance-related venting.

o. Automatic engine shut-down systems are not permissible.

p. Storage batteries for hybrid power systems shall be protected from crash impacts and shall be encased in a nonconductive, acid-resistant compartment. This compartment must be well-ventilated to preclude the possibility of hydrogen gas buildup.

44.3(29) Fuel system, fuel fill opening and cover. Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening shall be large enough to permit filling the fuel tank

without the need for special fuel nozzle adapters, a funnel, or other device. The opening shall be equipped with a forward hinged cover held closed by a spring or other conveniently operated device. The cover may be of a lockable design. Type A buses are exempt from the requirement of a cover.

44.3(30) Governor. An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

44.3(31) Heating and air conditioning.

a. Each heater shall be hot-water or combustion type.
b. If only one heater is used, it shall be a fresh-air or combination fresh-air and recirculation type.
c. If more than one heater is used, additional heaters may be recirculating air type.
d. The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

e. Auxiliary fuel-fired heating systems are permitted, provided that they comply with the following:

(1) The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine.

(2) Heater(s) may be direct hot air or connected to the engine's coolant system.

(3) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.

(4) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and shall not direct exhaust in a manner that will endanger bus passengers.

(5) Auxiliary heating systems which operate on diesel fuel shall be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(6) The auxiliary heating system shall be low voltage.

(7) Auxiliary heating systems shall comply with all applicable FMVSS including FMVSS 301 as well as SAE test procedures.

f. Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20c. Heater lines on the interior of the bus shall be shielded to prevent scalding of the driver or passengers.

g. Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.

h. Each hot water heating system shall be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.

i. All combustion heaters shall be in compliance with current Federal Motor Carrier Safety Regulations.

j. Accessible bleeder valves shall be installed in an appropriate place in the return lines of body manufacturer-installed heaters to remove air from the heater lines.

k. Access panels shall be provided to make heater motors, cores, and fans readily accessible for service. An outside access panel may be provided for the driver's heater.

l. Air-conditioning systems may be installed in accordance with the following:

(1) Evaporator cases, lines and ducting (as equipped) shall be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.

(2) Any evaporator or ducting system shall be designed and installed so as to be free of injury-producing projections or sharp edges. Installation shall not reduce compliance with any FMVSS applicable to the school bus. Ductwork shall be installed so that exposed edges face the front of the bus and do not present sharp edges.

(3) Any evaporators used must be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.

(4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus shall be equipped with replaceable air filter(s) accessible without disassembly of the evaporator case.

(5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting shall be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance shall be provided along the entire length of the passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total air-conditioning system shall be warranted, including parts and labor, for at least two years and shall include, but not be limited to, compressor-mounting bracketry and hardware and any belts which, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications must be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer's warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing must be readily accessible for servicing.

(8) Parts and service manuals shall be provided for the entire system including, but not limited to, compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.

(9) Electrical requirements for the air-conditioning system shall be provided to the customer prior to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning system to ensure that adequate electrical demands imposed by the air-conditioning system are capable of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the longitudinal centerline of the bus. The three points shall be: near the driver's location; at the midpoint of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

44.3(32) Heating system, provisions for:

a. The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The openings shall be suitable for attaching 3/4-inch or metric equivalent pipe thread/hose connector.

b. The engine shall be capable of supplying water having a temperature of at least 170 degrees Fahrenheit at a flow rate of 50 pounds per minute at the return end of 30 feet of one-inch inside-diameter automotive hot water heater hose. Engine temperature performance shall be measured in accordance with the School Bus Manufacturer's Technical Council Standard Number 001—Procedures for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment, July 1996.

c. For Type A vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer shall provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.3(17) and 44.3(31).

44.3(33) Headlamps.

a. Buses shall be equipped with a minimum of two headlamps meeting FMVSS 108 with circuit protection.

b. The headlamp switch shall be of adequate ampere capacity to carry the load of the clearance and identification lamps in addition to the headlamps and tail lamps since these will be activated by the same switch.

c. There shall be a manually operated switch for selection of high- or low-beam distribution of the headlamps.

d. The headlight system must be wired separately from the body-controlled solenoid.

e. A daytime running lamp (DRL) system shall be provided.

44.3(34) Hinges. All exposed metal passenger-door hinges subject to corrosion shall be designed to allow lubrication without disassembly. All passenger-door hinges shall be securely bolted to the bus body. Metal screws are not acceptable.

44.3(35) Horn. Chassis shall be equipped with a horn of standard make capable of producing a complex sound in a band of audio frequencies between approximately 250 and 2,000 cycles per second and tested in accordance with Society of Automotive Engineers (SAE) Standard J377.

44.3(36) Identification.

a. The body shall bear the words "SCHOOL BUS" in black letters at least 8 inches high on both front and rear of the body or on attached signs. The lettering shall be placed as high as possible without impairment of its visibility. The lettering shall conform to Series B of Standard Alphabets of Highway Signs. "SCHOOL BUS" lettering shall have a reflective background or, as an option, may be illuminated by backlighting.

b. The bus, whether school-owned or contractor-owned, shall have displayed at the beltline on each side of the vehicle the official name of the school in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

Examples:

- (1) Blank community school district.
- (2) Blank independent school district.
- (3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words "community," "independent," "consolidated," and "district" may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words "community school district" may be replaced by the uppercase letters "CSD" upon prior approval by the school transportation consultant of the Iowa department of education.

c. The incorporated names of cities located within an officially reorganized school district may be placed on either side of the bus in a single line situated beneath the official school district name. The lettering shall not exceed 2 inches in height and shall be black. This paragraph shall apply only when the names of the cities are not included in the official school district name on the beltline.

d. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students shall bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

e. The words "RATED CAPACITY," along with the appropriate number indicating the rated pupil seating capacity of the bus, shall be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters shall be black in color and at least 2 inches in height. The word "CAPACITY" may be abbreviated and shown as "CAP." where necessary.

f. The number of the bus shall be printed in not less than 5-inch nor more than 8-inch black letters, except as otherwise noted in this subrule, and shall be displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:

- (1) Shall be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.
- (2) Shall be yellow if located on either the front or rear bumper.
- (3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number shall be black and shall measure not less than 24 inches in length.

(4) Shall not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words "SCHOOL BUS."

g. Buses privately owned by individuals, a company, or a contractor shall also bear the name of the owner, followed by the word "OWNER" in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.

h. Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, shall not exceed 36 square inches. This requirement applies to all school buses regardless of date of purchase.

i. Symbols identifying the bus as equipped for or transporting students with special needs shall be displayed. See subrule 44.4(2).

j. The words “UNLAWFUL TO PASS WHEN LIGHTS FLASH” shall be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters shall be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the Iowa department of education.

k. The word “BATTERY” in 2-inch black letters shall be placed on the door covering the battery opening.

l. Pressure-sensitive markings of vinyl material may be used for the lettering mentioned in this subrule in lieu of painting.

m. Any lettering, including the name of the school’s athletic team(s), numbers, drawings, bumper stickers, characters, or mascot symbols other than the bus manufacturer’s registered trademarks or those specifically noted in paragraphs 44.3(36) “a” through “k” above are prohibited.

44.3(37) Instruments and instrument panel.

a. Chassis shall be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)

- (1) Speedometer.
- (2) Odometer with accrued mileage including tenths of miles unless tenths of miles are registered on a trip odometer.
- (3) Voltmeter with graduated scale.
- (4) Oil pressure gauge.
- (5) Water temperature gauge.
- (6) Fuel gauge.
- (7) Upper-beam headlamp indicator.
- (8) Air pressure gauge, where air brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.
- (9) Turn signal indicator.
- (10) Glow-plug indicator light, where appropriate.
- (11) Tachometer required on vehicles 14,500 pounds GVWR and greater.

b. Gauges shall be displayed as single-gauge installations or as gauges contained in a multifunction instrument display. The multifunction instrument display shall comply, as a minimum, with the following design criteria:

- (1) The driver must be able to manually select any displayable function of the gauge on a multifunction display whenever desired.
- (2) Whenever an out-of-limits condition occurs, which would be displayed on one or more functions of a multifunction gauge, the multifunction gauge controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated warning light as well as having the multifunction gauge automatically display the out-of-limits indications. Should two or more functions displayed on the multifunction gauge go out of limits simultaneously, the multifunction gauge should automatically sequence between those functions continuously until the condition(s) is corrected.
- (3) The use of a multifunction instrument display does not relieve the requirement of audible warning devices as required in this subrule.

c. All instruments shall be easily accessible for maintenance and repair.

d. Instruments and gauges shall be mounted on the instrument panel so each is clearly visible to the driver in a normal seated position in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

e. The instrument panel shall have rheostatically controlled lamps of sufficient candlepower to illuminate all instruments, gauges, and the shift selector indicator for automatic transmission.

44.3(38) Insulation.

a. Thermal insulation in the ceiling and walls shall be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation shall be installed in such a way as to prevent it from sagging.

b. Roof bows shall be insulated in accordance with paragraph 44.3(38) “*a.*”

44.3(39) Interior:

a. The interior of the bus shall be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel shall be lapped by the rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.3(64).

b. Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, shall be located within the driver’s compartment area. All radio speakers shall be flush-mounted with the roof or side panels and shall be free of sharp edges which could cause injury to a child.

c. The driver’s area forward of the foremost padded barriers shall permit the mounting of required safety equipment and vehicle operation equipment.

d. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

e. An access panel must be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

f. Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

g. An electronic “child check” monitor shall be installed. This monitor shall operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

h. Mobile Wi-Fi Internet is allowed, in accordance with other provisions of subrule 44.3(39).

i. On-board interior bus camera heads are allowed within the passenger area of the bus. Camera heads shall not extend more than 1 inch from the ceiling and shall have rounded edges as much as possible. Camera heads shall not be mounted directly above the aisle.

44.3(40) Lamps and signals.

a. All lamps and lamp components shall meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps shall be of incandescent or LED design.

b. Clearance lamps. The body shall be equipped with two amber clearance lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

c. Identification lamps. The bus shall be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group shall be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

d. Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is required on each side, located midway between the front and rear clearance lamps.

e. Stop/tail (brake) lamps. Buses shall be equipped with four combination, red stop/tail lamps meeting SAE specifications. Each lamp shall have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

(1) Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area shall be mounted on the rear of the bus just to the inside of the turn signal lamps.

(2) Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area shall be mounted on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-2

buses with bodies supplied by the chassis manufacturer may have the manufacturer's standard stop and tail lamps.

f. Items described in paragraphs 44.3(40) "b," "c," "d," and "e" shall be connected to the headlamp switch.

g. Backup lamps. The bus body shall be equipped with two white rear backup lamps. All vehicles shall be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps shall have a white or clear lens and shall meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

h. Interior lamps. Interior lamps shall be provided which adequately illuminate the interior aisle and the step well. Step well lights shall be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps shall be provided:

(1) Supervisor's light. The rearmost ceiling light or a separate light may be used as a supervisor's light and shall be activated by a separate switch controlled by the driver.

(2) Driver's area dome light. This light shall have a separate switch controlled by the driver and shall illuminate the driver's compartment area.

(3) Body instrument panel lights shall be controlled by a rheostat switch.

(4) On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

i. License plate lamp. The bus shall be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

j. Reflectors. Reflectors shall be securely attached to the body with sheet metal screws or another method having equivalent securement properties and installed in accordance with the requirements of FMVSS 108; however, the vehicle shall, as a minimum, be equipped with the following:

(1) Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is required on each side at or near the midpoint between the front and rear side reflectors.

(2) Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

(3) Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

k. Warning signal lamps.

(1) Buses shall be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

(2) In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area immediately around the lens of each alternately flashing signal lamp shall be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there shall be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

(4) Red lamps shall flash at any time the stop signal arm is extended.

(5) All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.

(6) Strobe lights are permissible.

(7) Additional electronic/lighted warning devices mounted on the rear of the bus are allowed. Each design shall be evaluated and approved by Iowa department of education personnel per established criteria.

l. Turn signal lamps.

(1) The bus body shall be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical and their centerline shall be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps must be at least 21 square inches in lens area and in the manufacturer's standard color.

(2) Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm, and the turn signal lamp on the right side shall be mounted rearward of the service door.

m. A white flashing strobe light rated for outdoor use and weather-sealed shall be installed on the roof of the bus not less than 1 foot or more than 18 inches from the rear center of the bus. The strobe light shall be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

(1) The strobe light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than the maximum legal height.

(2) The strobe light must be controlled by a separate switch with an indicator light which when lit will indicate that the strobe light is turned on.

(3) The light shall be used only in fog, rain, snow, or at times when visibility is restricted.

(4) Each model strobe shall be approved by the motor vehicle division, Iowa department of transportation.

44.3(41) Measurements.

a. Interior body height shall be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses shall be 62 inches or more.

b. Overall height, length and width of the bus shall not exceed the maximums allowed by the Iowa department of transportation.

44.3(42) Metal treatment.

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body shall be zinc-coated or aluminum-coated to prevent corrosion. This requirement applies to, but is not limited to, such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body subjected to a 1,000-hour salt spray test as provided for in the latest revision of ASTM Standard B-117 shall not lose more than 10 percent of material by weight.

44.3(43) Mirrors.

a. The interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror shall have rounded corners and protected edges. All Type A buses shall have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses shall have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus shall be equipped with exterior mirrors meeting the requirements of FMVSS 111. Mirrors shall be easily adjustable, but shall be rigidly braced so as to reduce vibration.

- c. Heated right- and left-side rearview mirrors shall be provided.
- d. Systems offering a design feature permitting the driver to remotely adjust rearview mirrors from the driver's compartment shall be utilized.
- e. The right-side rearview mirrors must be unobstructed by the unwiped section of the windshield.
- f. Heated cross-view mirrors shall be provided.
- g. Stainless steel mirror brackets are allowed.

44.3(44) Mounting.

a. The chassis frame shall support the rear body cross member. Except where chassis components interfere, the bus body shall be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators shall be placed at all contact points between the body and chassis frame and shall be secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front shall be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is restricted to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the original equipment manufacturers (OEMs), shall be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner shall certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and shall provide suitable warranty on all work performed. See also subrule 44.6(1).

44.3(45) Mud flaps.

a. Mud flaps or guards are required and shall be provided and installed by the body manufacturer or manufacturer's representative for both front and rear wheels.

b. Front mud flaps or guards shall be of adequate size to protect body areas vulnerable to road debris from wheels and shall be mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards shall be comparable in size to the width of the rear wheelhousing and shall reach within approximately 9 inches of the ground when the bus is empty. They shall be mounted at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being damaged by tire chains or being pulled off while the vehicle is in reverse motion.

d. All mud flaps shall be constructed of rubber. Vinyl or plastic is not acceptable.

44.3(46) Oil filter. An oil filter with a replaceable element or cartridge shall be of manufacturer's recommended capacity and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design.

44.3(47) Openings. All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

44.3(48) Passenger load.

a. Actual gross vehicle weight (GVW) is the sum of the chassis weight, plus the body weight, plus the driver's weight, plus the total seated pupil weight.

(1) For purposes of calculation, the driver's weight is 150 pounds.

(2) For purposes of calculation, the pupil weight is 120 pounds per pupil.

b. Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's GVWR for the chassis, nor shall the actual weight carried on any axle exceed the chassis manufacturer's gross axle weight rating.

44.3(49) Passenger securement seating system.

a. All vehicles shall conform to all FMVSS at date of manufacture.

b. Unless otherwise required by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when the child's individual education program staffing team determines that special seating and positioning are necessary during transportation. When the staffing team determines that a passenger securement system is necessary to safely transport a student with a disability, the need shall be documented in the student's individual education plan (IEP).

c. When a child securement system is required in paragraph 44.3(49) “b,” the seat, including seat frame, seat cushion, belt attachment points, belts and hardware, shall comply with all applicable FMVSS at the time of manufacture. When it is determined that the securement system is no longer necessary to provide seating assistance to a child with a disability, the securement system shall be removed from the seat frame.

d. Children transported in child safety seats shall be secured to a school bus seat utilizing a seat belt-ready seat frame, according to the child safety seat manufacturer’s instructions.

44.3(50) Public address system. A public address system permitting interior, exterior or both interior and exterior communication with passengers may be installed.

44.3(51) Radio/communication system. Each school bus shall have a communication system to allow communication between the driver of the bus and the school’s base of operations for school transportation. This system shall be a two-way radio, cellular phone, or similar device as allowed by local and state policies regarding use of handheld communication equipment.

44.3(52) Retroreflective material.

a. Retroreflective material shall be provided in accordance with the following:

(1) The rear of the bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the “Retroreflective Sheeting Daytime Color Specification Proposal” of Appendix B, National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. The perimeter marking of rear emergency exits in accordance with FMVSS 217 and the use of reflective “SCHOOL BUS” signs partially accomplish the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1¾-inch reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

(2) “SCHOOL BUS” signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and rear “SCHOOL BUS” signs.

(3) Sides of the bus body shall be marked with reflective NSBY material at least 1¾ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

b. Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/- ¼ inch wide strips of noncontrasting reflective material. This material shall appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

44.3(53) Road speed control. When it is desired to accurately control vehicle maximum speed, a road speed control device may be utilized. A vehicle cruise control may also be utilized.

44.3(54) Rub rails.

a. One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level shall extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located at, or no more than 10 inches above, the floor line shall cover the same longitudinal area as the upper rub rail, except at wheel housings, and shall extend only to radii of the right and left rear corners.

c. Rub rails at or above the floor line shall be attached at each body post and all other upright structural members.

d. Each rub rail shall be 4 inches or more in width in its finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

e. Rub rails shall be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

g. Rub rails shall be painted black or shall be covered with black retroreflective material.

44.3(55) Seating, crash barriers.

a. All school buses (including Type A) shall be equipped with restraining barriers which conform to FMVSS 222.

b. Crash barriers shall be installed conforming to FMVSS 222; however, all Type A-2 school bus bodies shall be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

c. Crash barriers and passenger seats may be constructed with materials that enable the crash barriers and passenger seats to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

d. All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

44.3(56) Seating, driver.

a. Type A school buses shall be equipped with a driver's seat of manufacturer's standard design meeting FMVSS.

b. All Type B, C, and D school buses shall have a driver's seat equipped with a one-piece high back designed to minimize the potential for head and neck injuries in rear impacts, providing minimum obstruction to the driver's view of passengers and meeting applicable requirements of FMVSS 222. The height of the seat back shall be sufficient to provide the specified protection for a 5th percentile adult female up to a 95th percentile adult male, as defined in FMVSS 208. The seat shall be centered behind the steering wheel with a backrest a minimum distance of 11 inches behind the steering wheel. The seat shall be securely mounted to the floor of the bus with grade 5 or better bolts and shall be secured with locking nuts or lock washers and nuts.

c. All air brake-equipped school buses may be equipped with an air suspension driver's seat meeting the following additional requirements:

(1) The air control for height adjustment shall be within easy reach of the driver in the seated position.

(2) The seat cushion shall be a minimum of 19½ inches wide, shall be fully contoured for maximum comfort, and shall have a minimum of four adjustment positions to allow changes in seat bottom angle.

(3) The backrest shall include adjustable lumbar support.

(4) The seat shall have a minimum of 7 inches of forward and rearward travel, adjustable with the driver in the seated position. This requirement applies to the seat mechanism. Reduction of this requirement to no less than 4 inches due to barrier placement on 89-passenger capacity buses will be acceptable.

(5) The seat shall have a minimum of 4 inches of up and down travel.

(6) Seat back shall include adjustability of tilt angle.

(7) All adjustments shall be by fingertip controls without the use of tools.

(8) The seat shall comply with all applicable FMVSS.

d. Buses shall be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver's seat. The seat belt assembly and anchorage shall meet applicable FMVSS. The design shall also meet the following additional requirements:

(1) The design shall incorporate a fixed female push-button-type latch on the right side at seat level, and a male locking-bar tongue on the left retracting side.

(2) The assembly shall be equipped with a single, dual-sensitive emergency locking retractor (ELR) for the lap and shoulder belt. This system shall be designed to minimize "cinching down" on air sprung and standard seats.

(3) The lap portion of the belt shall be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat.

(4) There shall be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness on a nonintegrated style of seat belt assembly.

(5) Shoulder belt tension shall be no greater than is necessary to provide reliable retraction of the belt and removal of excess slack.

(6) The driver's seat belt assembly shall incorporate high-visibility material.

44.3(57) Seating, passenger.

a. All seats, component parts, and seat anchorage shall comply with applicable federal requirements as of the date of manufacture.

b. All seats shall have a minimum cushion depth of 15 inches and shall comply with all other requirements of FMVSS 222.

c. In determining the rated seating capacity of the bus, allowable average rump width shall be:

(1) Thirteen inches where a three-three seating plan is used.

(2) Fifteen inches where a three-two seating plan is used.

d. The following knee room requirements shall apply to all school bus bodies:

(1) Knee room shall meet the requirements of FMVSS 222 and shall be measured, on Type A-2, B, C and D school buses, at the center of the transverse line of the seat and at seat cushion height. The distance from the front of a seat back (cushion) to the back surface of the cushion on the preceding seat shall be not less than 24 inches. The seat upholstery may be placed against the seat cushion padding, but without compressing the padding, before the measurement is taken.

(2) On Type A-1 school buses, seat spacing shall be of the manufacturer's standard spacing.

e. All seats shall be forward-facing with seat frames attached to the seat rail with two bolts, washers and nuts or flange-headed nuts. Each seat leg shall be secured to the floor by a minimum of two bolts, washers, and nuts. Flange-headed nuts may be used in lieu of nuts and washers, or seats may be track-mounted in conformance with FMVSS 222. This information shall be on a label permanently affixed to the bus.

f. Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS 222, including required aisle width to side door, is acceptable. Any flip seat shall be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms shall be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats shall be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion shall be designed to rise to a vertical position automatically when not occupied.

g. Seats and seat back cushions shall be covered with a material having 42-ounce finished weight, 54-inch width, and finished vinyl coating of 1.06 broken twill or other material with equal tensile strength, tear strength, seam strength, adhesion strength, and resistance to abrasion, cold and flex separation.

h. All fabric seams shall be chain- or lock-stitch sewn with two threads, each equal to or exceeding the tensile strength of "F"-rated nylon thread.

i. Passenger seats shall be constructed with materials that enable them to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

j. Seat cushions shall contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

44.3(58) Seating, passenger restraints.

a. Lap belts shall not be installed on passenger seats in large school buses (over 10,000 pounds GVWR) except in conjunction with child safety restraint systems that comply with the requirements of FMVSS 213, Child Restraint Systems.

b. Three-point (3-point) lap shoulder belts may be installed in all buses. If installed, the restraint system shall include a flexible design feature, thus allowing three-two seating on the same 39-inch seat, depending on student size.

44.3(59) Shock absorbers. Buses shall be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

44.3(60) Steps.

a. The first step at the service door shall be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door shall be 11 inches to 16 inches from the ground. A step well guard/skid plate shall be installed by the manufacturer on all Type D vehicles.

b. Step risers shall not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

c. Steps shall be enclosed to prevent accumulation of ice and snow.

d. Steps shall not protrude beyond the side body line.

e. A suitable device(s) shall be installed within the service entrance door area to assist passengers during entry or egress from the bus. The device(s) shall be designed so as to prevent injury or fatality to passengers from being dragged by the bus after becoming entangled in the device(s).

44.3(61) Step treads.

a. All steps, including floor line platform area, shall be covered with an elastomer floor covering having a minimum overall thickness of 3/16 inch.

b. Grooved design step treads shall be such that grooves run at a 90-degree angle to the long dimension of the step tread. The step covering shall be permanently bonded to a durable backing material that is resistant to corrosion.

c. Step treads shall have a 1/2-inch white or yellow nosing as an integral piece without any joint.

d. Step treads shall have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

e. A 3-inch white or yellow rubber step edge at floor level, flush with the floor covering, shall be provided.

44.3(62) Stirrup steps.

a. There shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Handles on the service door are prohibited.

b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

44.3(63) Stop signal arm.

a. The stop signal arm shall be a flat 18-inch octagon exclusive of brackets for mounting. All lamps and lamp components shall comply with the requirements of FMVSS 131.

b. Both surfaces of the sign shall be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.

c. The application of the reflective sheeting material shall be in accordance with the sheeting manufacturer's suggested application process. All copy shall be sharply defined and clean cut.

d. The stop arm blade shall be mounted in the area below the driver's window on the left side of the bus.

e. A second stop signal arm may be installed on the left side at or near the left rear corner of the school bus and shall meet the requirements of FMVSS 131.

f. Each stop arm blade shall be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade shall be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.

g. A wind guard shall be installed which prevents air currents from circulating behind the blades.

h. The stop arm shall be vacuum-, electric-, or air-operated; and the system must positively hold the sign in extended or retracted position to prevent whipping in the wind.

i. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer shall provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.

j. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word “STOP” visible to the front and rear. This lighting system shall comply with applicable FMVSS prior to installation.

44.3(64) Storage compartments.

a. An enclosed space shall be provided in the driver’s compartment for storing manuals and bus driver records. See also subrule 44.3(20).

b. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

c. Luggage compartments located within the area comprising the wheelbase of the vehicle are allowed. Compartments shall include a door and a means of holding the door in an open position when the compartment is being loaded or unloaded.

44.3(65) Suspensions.

a. The capacity of springs or suspension assemblies shall be commensurate with the chassis manufacturer’s GVWR rating.

b. Steel leaf rear springs shall be a progressive rate or multistage design. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf. Parabolic or taper-leaf springs are acceptable.

c. Air suspension systems are acceptable. Air bags, hoses, hose routing, and all related hardware shall conform to the chassis manufacturer’s recommendations.

44.3(66) Steering gear.

a. The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

b. If external adjustments are required, the steering mechanism shall be accessible.

c. No changes shall be made in the steering apparatus including addition of spinners or knobs which are not approved by the chassis manufacturer.

d. There shall be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

e. Power steering is required and shall be of the integral type with integral valves.

f. The steering system shall be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.

g. Tilting and telescopic steering wheels are acceptable.

44.3(67) Sun shield.

a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches × 30 inches with a finished edge shall be installed in a position convenient for use by the driver.

b. On all Type A buses, the sun shield shall be the manufacturer’s standard.

44.3(68) Tailpipe. See subrule 44.3(23).

44.3(69) Throttle.

a. The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

b. A driver-operated, mechanical or electronic variable-speed hand throttle, or a fast idle switch, shall be provided on all Type C and D vehicles.

c. OEM adjustable pedals are acceptable as an option.

44.3(70) Tires and rims.

a. Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer’s gross vehicle weight rating (GVWR) shall be provided.

b. Tires shall be of tubeless, steel-belted, radial (standard or low-profile) construction.

c. “Bud” type, hub-piloted steel rims are required. Multipiece and “Dayton” rims are prohibited.

d. Dual tires shall be provided on all vehicles listed in rule 281—44.2(285), except Type III vehicles.

e. All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by FMVSS 120.

f. Spare tires are not required; however, if specified, the spare tire shall be located outside the passenger compartment. The spare tire may not be attached to any part of the rear portion of the body including the emergency door, bumper or roof. If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment.

g. Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.

h. Tires, when measured on any two or more adjacent tread grooves, shall have a tread groove pattern depth of at least 4/32 of an inch on the front wheels and 2/32 of an inch on the rear wheels. No measurement shall be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses with single front and rear wheels, the tread groove pattern depth shall be at least 4/32 of an inch. Where specific measurement points are provided by the tire manufacturer, they shall be utilized in determining tires approved for service. This requirement also applies to buses now in service.

i. Tire pressure equalizing systems for dual rear wheels are acceptable.

j. Traction-assisting devices, including hopper-sanders, tire chains or automatic traction chains, may be installed.

k. Wheel check indicators for lug nuts are allowed.

44.3(71) *Tow hooks, front.* Tow eyes or hooks are required on Type B, C and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the manufacturer so as not to project beyond the front bumper

44.3(72) *Tow hooks, rear.* Two rear tow hooks are required on all school buses. Rear tow hooks shall be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.

44.3(73) *Traction-assisting devices.* Traction-assisting devices including hopper-sanders, tire chains or automatic traction chains may be installed.

44.3(74) *Transmission.*

a. Automatic transmissions shall provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, shall provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.

b. Automatic transmissions incorporating a parking pawl shall have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission. All non-parking pawl transmissions shall incorporate a park brake interlock that requires the service brake to be applied to allow release of the parking brake.

44.3(75) *Trash container and holding device.*

a. When a trash container is placed on the school bus, it shall comply with the following:

(1) Meet the requirements of FMVSS 302, Flammability of Interior Materials.

(2) Be no greater than 20-quart capacity.

(3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.

b. The container shall be placed in an accessible location in the driver's compartment of the school bus subject to Iowa department of education approval. The container shall not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.

44.3(76) *Turning radius.*

a. A chassis with a wheelbase of 264 inches or less shall have a right and left turning radius of not more than 42½ feet, curb-to-curb measurement.

b. A chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44½ feet, curb-to-curb measurement.

44.3(77) Undercoating.

a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, and chassis front fenders shall be coated with rustproofing material for which the material manufacturer has issued to the bus body manufacturer a notarized certification that materials meet or exceed all performance requirements of SAE J1959.

b. Undercoating material shall be applied with suitable airless or conventional spray equipment to the undercoating material manufacturer's recommended film thickness and shall show no evidence of voids in cured film.

c. The undercoating material shall not cover any exhaust components of the chassis.

d. If chassis is built as a separate unit, the chassis manufacturer or its agents shall be responsible for providing undercoating to the chassis areas.

44.3(78) Vacuum check valve. A vacuum check valve shall be provided and installed on the chassis by the school bus body manufacturer for connecting vacuum accessory items.

44.3(79) Vandal lock.

a. The school bus may be equipped with a vandal locking system for securing the service entrance and emergency door(s).

b. The vandal locking system shall include the following design features:

(1) The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system must prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This requirement does not apply to Type A vehicles with a left-side driver's door.

(2) When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt which shall activate a buzzer when the door or emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism must be capable of being locked or unlocked without the use of a separate key or other similar device.

(3) The engine starting system of the bus shall not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

(4) Hasp-type devices may not be attached to the bus for the purpose of securing any door or window.

44.3(80) Ventilation.

a. The body ventilation system on Type A, B, C and D buses shall include one static, nonclosing exhaust vent in the low-pressure area of the roof and one or more combination roof ventilation/emergency escape hatches in accordance with 44.3(18). The ventilation system shall be capable of being controlled and shall have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch shall be installed by the school bus body manufacturer or the body manufacturer's approved representative and shall have the following design and installation features:

(1) Multiposition fresh air ventilation.

(2) Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.

(3) An audible warning system which sounds an alarm in the driver's compartment area when the emergency roof hatch is unlatched shall be installed as a design feature by the manufacturer.

(4) When more than one ventilation/emergency roof hatch is required, one shall be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit shall be installed on the roof in a location behind the rear axle. When only one ventilation/emergency roof hatch is required, it shall be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans shall be installed and shall meet the following requirements:

(1) Two adjustable fans shall be installed on Type B, C and D buses. Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

(2) Fans shall be a nominal 6-inch diameter except where noted below.

(3) Fan blades shall be covered with a protective cage. Each fan shall be controlled by a separate switch capable of two-speed operation.

(4) Type A buses shall have at least one fan that has a nominal diameter of at least 4 inches and meets the above requirements.

44.3(81) Wheelhousings.

a. The wheelhousing opening shall allow for easy tire removal and service.

b. The wheelhousing shall be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the bus body. Wheelhousings shall be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.

c. The inside height of the wheelhousing above the floor line shall not exceed 12 inches.

d. The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

e. No part of a raised wheelhousing shall extend into the emergency door opening.

44.3(82) Windshield and windows.

a. All glass in windshield, windows, and doors shall be of approved safety glass consistent with American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, ANSI/SAE Z-26.1-1990, mounted so the permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction.

b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of "fade out" shall be above the upper limit for maximum visibility.

c. Each full side window, other than emergency exits designated to comply with FMVSS 217, shall be split-sash type and shall provide an unobstructed emergency opening of at least 9 inches high, but not more than 13 inches high, and 22 inches wide, obtained by lowering the window. When the driver's window consists of two sections, both sections shall be capable of being moved or opened.

d. Insulated double glass is required in both sections of the left-side driver's window and in the upper glass portion(s) of the service entrance door.

e. Window glass forward of the service door and in the driver's direct line of sight for observing exterior rearview mirrors and traffic shall be of insulated double glass. The door glass in Type A-2 vehicles equipped with a manufacturer's standard van-type, right-side service door may be of the manufacturer's standard design.

f. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device shall be securely mounted by the manufacturer, shall be free of projections which might harm passengers, and shall permit visibility through the device to the area outside and to the rear of the bus.

g. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the Iowa department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:

(1) All glass to the immediate left of the driver.

(2) All glass forward of the driver and service door.

(3) All glass in the service entrance door.

h. The entire windshield area shall be of AS-I rating.

44.3(83) Windshield washer system.

a. All buses shall be equipped with electric wet-arm windshield washers which conform to the body manufacturer's recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A vehicles may be of the manufacturer's standard design. On Type A-2 vehicles, the windshield washer system shall be of the manufacturer's standards.

b. The washer control(s) shall be located within easy reach of the driver.

44.3(84) Windshield wiper system.

a. For Type A vehicles, windshield wipers shall be supplied by the chassis manufacturer and shall be of the manufacturer's standard design.

b. Type B, C and D buses shall be equipped with two positive-action, two-speed or variable-speed electric or air windshield wipers. Windshield wipers shall have an intermittent wiping feature and shall be operated by a single switch.

c. The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give a full sweep of the windshield.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver's view when the wiper control is in the "off" position.

e. Windshield wipers shall meet the requirements of FMVSS 104.

44.3(85) Wiring.

a. All wiring shall conform to current, applicable SAE-recommended practices.

b. All wiring shall use a standard color or number coding system or a combination of color and number. Each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

c. The chassis manufacturer of an incomplete vehicle shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

- (1) Main 100-amp body circuit.
- (2) Tail lamps.
- (3) Right turn signal.
- (4) Left turn signal.
- (5) Stop lamps.
- (6) Backup lamps.
- (7) Instrument panel lights (rheostat controlled by headlamp switch).

d. Circuits.

(1) An appropriate identifying diagram (coded by color or number or both) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

(2) The headlight system must be wired separately from the body-controlled solenoid.

(3) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker or circuit protection device.

(4) A master wiring diagram shall be supplied for each vehicle provided by the body manufacturer. Chassis wiring diagrams, including any changes to wiring made by the body manufacturer, shall also be supplied to the end user.

(5) The following body interconnecting circuits shall be color-coded as noted, and the color of cables shall correspond to SAE J1128:

FUNCTION	COLOR
Left rear directional light	Yellow
Right rear directional light	Dark green
Stoplights	Red
Backup lights	Blue
Taillights	Brown
Ground	White
Ignition feed, primary feed	Black

e. Wiring shall be arranged in at least six regular circuits as follows:

- (1) Head, tail, stop (brake) and instrument panel lamps.
- (2) Clearance and step well lamps, which shall be actuated when the service door is opened.
- (3) Dome lamp.

- (4) Ignition and emergency door signal.
- (5) Turn signal lamps.
- (6) Alternately flashing signal lamps.
- f.* Any of the above combination circuits may be subdivided into additional independent circuits.
- g.* Whenever heaters and defrosters are used, at least one additional circuit shall be installed.
- h.* Whenever possible, all other electrical functions, such as Sanders and electric-type windshield wipers, shall be provided with independent and properly protected circuits.
- i.* Each body circuit shall be coded by number or letter on a diagram of circuits which shall be attached to the body in a readily accessible location.
- j.* The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.
- k.* All wiring shall have an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be made at an accessible location and noted as splices on wiring diagram.
- l.* A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.
- m.* The body power wire shall be attached to a special terminal on the chassis.
- n.* Each wire passing through a metal opening shall be protected by a grommet.
- o.* Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

[ARC 9263B, IAB 12/15/10, effective 1/19/11; ARC 1489C, IAB 6/11/14, effective 7/16/14]

281—44.4(285) Construction of vehicles for children with mobility challenges. The following shall apply to vehicles constructed for the transportation of children with mobility challenges of such severity that the children are prohibited from utilizing the regular service door entrance. Vehicles constructed for transporting these children shall meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.3(285). The following standards shall also apply:

44.4(1) General requirements.

a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating shall not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS for school buses as well as rules 281—44.1(285) to 281—44.3(285) relating to the construction of a school bus.

b. Alteration of the interior of the vehicle is permissible if all seats and barriers, component parts, anchorages, wheelchair securement devices, and placement of seats and barriers and wheelchair securement devices comply with federal requirements as of date of manufacture. All equipment must be supplied by the original manufacturer and installed per the original manufacturer's specification. Alteration which would return the vehicle to conventional passenger seating shall include removal of all wheelchair securement devices, removal of the power lift, and rendering the special service door inoperable.

c. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance shall be equipped with a power lift located on the right side of the bus body and forward of the rear wheels on a Type B, C, or D bus. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only. See paragraph 44.4(2) "f."

d. The actual rated seating capacity following modification of a vehicle shall be placed at locations indicated in paragraph 44.3(36) "e."

e. Ramps are not permitted.

44.4(2) Specific requirements.

a. Aisle.

(1) Aisles leading from wheelchair placement(s) to the special service door and the service door shall at all times be a minimum of 30 inches wide.

(2) Aisles leading to all the emergency doors from wheelchair placement(s) shall at all times be at least 20 inches in width.

b. Barriers.

(1) Barriers shall comply with and be installed as required by federal standards as of date of manufacture.

(2) A heavy-duty padded barrier or stanchion shall be provided immediately to the rear of the step well opening extending from the side wall of the bus to approximately the aisle to prevent a person from accidentally falling into the step well opening from floor level. A barrier or stanchion as mentioned above shall also be placed directly behind the driver.

(3) The power lift mechanism shall be padded and protected to prevent a child from accidentally getting any part of the child's body caught in the power lift mechanism or special service door at any time.

(4) All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

c. Glazing. Tinted glazing may be installed in all doors, windows, and windshield.

d. Heaters. An additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.

e. Identification. Buses with wheelchair lifts used for transporting physically handicapped children shall display universal handicapped symbols located on the front and rear of the vehicle below the window line. Emblems shall be white on blue, shall not exceed 12 × 12 inches in size, and may be reflectorized.

f. Power lift.

(1) The lifting mechanism shall be able to lift a minimum payload of 800 pounds.

(2) The power lift shall be located on the right side of the body and in no way be attached to the exterior sides of the bus, but should be confined within the perimeter of the school bus body when not extended. The power lift shall be located forward of the rear wheels of the vehicle on Type B, C and D buses. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only.

(3) When the platform is in the fully "up" position, it shall be locked in position mechanically by means other than a support or lug in the door.

(4) All lift controls shall be portable and conveniently located on the inside of the bus near the special service door opening. Controls shall be easily operable from inside or outside the bus by either a platform standee or person seated in a wheelchair when the lift is in any position. A master cut-off switch controlling on/off power to the lift shall be located in the driver's compartment. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

(5) Power lifts shall be equipped so they may be manually raised or lowered in the event of power failure of the power lift mechanism.

(6) The platform shall accommodate a wheelchair which is 30 inches wide. The platform shall be not less than 44 inches long, including guard panels or rails.

(7) The power lift platform shall be covered with skid-resistant material or be designed to prevent slipping.

(8) The lift platform shall be constructed to permit vision through that portion of the platform covering the window of the special service door when the platform is in the "up" position.

(9) All edges of the platform shall be designed to restrain a wheelchair and to prevent the operator's feet from being entangled during the raising and lowering process.

(10) The platform shall be fitted on both sides with full width shields which extend above the floor line of the lift platform.

(11) An operating safety barrier shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level. The barrier shall not be capable of being manually operated.

(12) A self-adjusting, skid-resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subparagraph (11) above.

(13) The power lift shall be designed so the lift will not operate unless the special service door(s) is opened and the lift platform is in the “down” or horizontal position.

(14) The lift travel shall allow the lift platform to rest securely on the ground.

(15) A circuit breaker, fuse, or other electrical protection device shall be installed between the power source and the lift motor if electrical power is used.

(16) When hydraulic pressure is used in the lifting process, the system shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full “up” position or full “down” position.

(17) All exposed parts of the power lift which are in direct line with the forward or rearward travel of a wheelchair student or attendant shall be padded with energy-absorbing material.

g. Ramps. Ramps are not permitted.

h. Regular service entrance.

(1) An additional fold-out or slide-out step may be provided which will provide for the step level to be no more than 6 inches from the ground level to assist persons with handicapping conditions that prohibit the use of the standard entrance step. This step, when stored and not in use, shall not impede or in any way block the normal use of the entrance.

(2) On power lift-equipped vehicles, service entrance steps shall be the full width of the step well, excluding the thickness of the doors in the open position.

(3) In addition to the standard handrail required in all buses, an additional handrail may be provided on all specially equipped school buses. If so equipped, this rail shall be located on the opposite side of the entrance door from the required rail and shall meet the same requirements for handrails.

i. Seating and seating arrangements.

(1) All seat spacing, seats, and related components shall comply with applicable federal standards as of date of manufacture.

(2) All seats shall be forward facing. Side-facing seats are prohibited.

(3) Seat frames may be equipped by the school bus body manufacturer with rings or other devices to which passenger restraint systems may be attached.

j. Special light. Light(s) shall be placed inside the bus to sufficiently illuminate the lift area and shall be activated from the door area.

k. Special service opening.

(1) There shall be an enclosed service opening located on the right side (curb side) of the body forward of the rear wheels to accommodate a wheelchair lift on Type B, C and D buses. This service opening may be placed on the right side (curb side) of the body behind the rear wheels on Type A buses only to accommodate a wheelchair lift in that location.

(2) The opening shall be at least 52 inches high and 40 inches wide and with doors open shall be of sufficient width to allow for the installation of various power lifts and related accessories as well as a lifting platform at least 32 inches wide.

(3) The opening shall be positioned far enough to the rear of the regular service door opening to prevent interference of the special service door(s) opening with the regular service doors.

(4) A drip molding shall be installed above the opening to effectively divert water from the entrance.

(5) Doorposts, headers, and all floor sections around this special opening shall be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

(6) A header pad at least 3 inches wide, extending the width of special service door, shall be placed above the opening on the inside of the bus.

l. Special service door(s).

(1) All doors shall open outwardly.

(2) All doors shall have positive fastening devices to hold doors in the open position.

(3) All doors shall be equipped with heavy-duty hinges and shall be hinged to the side of the bus.

(4) All doors shall be weather sealed; and on buses with double doors, each door shall be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

(5) If optional power doors are installed, the design shall permit release of the doors for opening and closing by the attendant from the platform inside the bus.

(6) When manually operated dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward-mounted door shall have at least three-point fastening devices: One shall be to the header, one shall be to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide the same type of use as that of a standard entrance door.

(7) If the door is made of one-piece construction, the door shall be equipped with a slidebar, cam-operated locking device.

(8) Each door shall have installed a safety glass window, set in a waterproof manner, and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

(9) Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features shall match adjacent sections of the body.

(10) The door(s) shall be equipped with a device(s) that will actuate a flashing visible signal located in the driver's compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

m. Special student restraining devices.

(1) Each wheelchair station shall be equipped with a lap and torso restraint system that meets applicable FMVSS.

(2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints must be for the sole purpose of restraining passengers.

(3) All child safety restraint systems shall comply with the requirements of FMVSS 213, Child Restraint Systems.

n. Wheelchair securement systems.

(1) Securement systems for wheelchairs shall meet or exceed applicable FMVSS.

(2) All wheelchair securement systems or devices shall be placed in the vehicle so that, when secured, both wheelchair and occupant are facing toward the front of the vehicle. Fastening devices resulting in a side-facing wheelchair and occupant are not permissible.

(3) Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.

(4) The wheelchair securement system(s) shall be located in a school bus so that when a wheelchair is not secured in place the floor attachment system shall not extend above the floor level more than ½ inch.

[ARC 1489C, IAB 6/11/14, effective 7/16/14]

281—44.5(285) Type III vehicles.

44.5(1) General information. These vehicles may be used as a school bus in accordance with the following general requirements:

a. The vehicle shall be an original equipment manufacturer's (OEM) product and manufactured as a family-type or multipurpose passenger vehicle (MPV).

(1) Vehicles classified as pickups are not allowed for use as student transportation.

(2) Vehicles used exclusively for driver's education are exempt from these requirements.

b. The manufacturer's rated capacity of this vehicle, which shall be determined only by the original equipment manufacturer (OEM) on the date of manufacture, shall not exceed nine persons including the driver. The capacity rating may not be changed or modified except by the original equipment manufacturer. Secondary stage or vehicle conversion manufacturers shall not establish vehicle capacity.

c. Alteration of this vehicle, following manufacture by the OEM, is prohibited. This includes, but is not limited to, the addition or removal of seats, ramps, wheelchair securement devices and power lifts.

EXCEPTION: OEM options or other manufacturer's accessories not in violation of these standards may be installed.

d. The vehicle shall not carry more passengers than there are seat belts as installed by the manufacturer.

e. The vehicle shall not be painted the color known as national school bus glossy yellow.

f. The vehicle shall not be equipped with a stop arm or flashing warning signal lamps.

g. This vehicle must load and unload students off the traveled portion of the roadway.

44.5(2) *Special equipment.*

a. Interior liner. An interior liner that covers all exposed ceiling girders, sidewall posts, or other structural projections must be provided and installed by the manufacturer.

b. The vehicle, while transporting students to and from school, shall display a sign, visible to the rear, with the words "SCHOOL BUS." The sign shall be national school bus glossy yellow with black letters 6 inches high. The sign shall be a type that can be removed, dismounted, or covered when the vehicle is not transporting pupils to and from school.

c. A sign with the words "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS," visible to the rear, may be used where appropriate and not in conflict with current statutes. If used, the words shall be black letters on a yellow background. The sign shall be of a type that can be dismounted, turned down, or covered when the vehicle is not transporting pupils to and from school.

d. Special brake lamps. The vehicle may be equipped with two roof-mounted lights not greater than 4 inches in diameter and positioned horizontally on the roof at least 36 inches apart. The lights shall be connected to the brake lamp circuit of the vehicle's electrical system and shall operate only when the brakes are applied. When lit, the lamps shall be red and shall be visible only to the rear.

e. First-aid kit. The vehicle shall carry a minimum ten-unit first-aid kit. See 44.3(22)"d"(2).

f. Fire extinguisher. The vehicle shall carry a dry chemical fire extinguisher of at least 2½-pound capacity with a rating of 2A-10BC. The extinguisher shall be equipped with a calibrated or marked gauge. Plastic discharge heads and related parts are not acceptable.

g. Each vehicle shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in a location accessible to the seated driver in an easily detachable manner.

h. Each vehicle shall be equipped with a body fluid cleanup kit.

i. Each vehicle shall be equipped with a backup alarm beeper capable of a minimum of 112 db. NOTE: This is effective for 2007 model year vehicles and newer.

j. Trailer hitches are allowed on Type III vehicles in accordance with the manufacturer's rated towing capacity. Students are not allowed to be transported in the vehicle when the vehicle is being used to tow.

44.5(3) *Applicability of standards.* The above standards apply to all vehicles (except as noted in 44.5(2) "i") of this type and those currently in service used to transport students to and from school. [ARC 1489C, IAB 6/11/14, effective 7/16/14]

281—44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture.

44.6(1) *Body and chassis repair following an accident.*

a. A school bus that has been involved in an accident in which there is damage to the body or chassis components may be repaired to the extent that such repair is possible and that the damaged component can be returned to the original equipment manufacturer's specification and function.

b. The individual or company making the repairs shall certify to the vehicle's owner that all repairs have been made in accordance with the original vehicle or component manufacturer's recommendations using original equipment manufacturer's materials and parts, or their guaranteed equal.

c. Repairs shall not cause the vehicle to no longer comply with any FMVSS in effect and applicable at the time the vehicle or component was manufactured.

44.6(2) *New technology and equipment approval procedure.* It is the intent of these rules to accommodate new technologies and equipment which will better facilitate the transportation of students

to and from school and related activities. A new technology, piece of equipment or component that meets the following criteria may be adopted under the following conditions pending formal rule adoption:

- a.* The technology, equipment or component shall not compromise the effectiveness or integrity of any major safety system, unless it completely replaces the system.
- b.* It shall not diminish the safe environment of the interior of the bus.
- c.* It shall not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.
- d.* It shall not create undue additional activity or responsibility for the driver.
- e.* It shall not generally decrease the safety or efficiency of the bus.
- f.* It shall generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus or generally assist the driver or make the driver's many tasks easier to perform.
- g.* A pilot test for the purpose of evaluating the performance of the new technology, product or vehicle component may be conducted at the direction of the school transportation consultant with the approval of the director of the department of education. The pilot test shall include a minimum of five, but not more than ten, applications of the technology, product or component at locations and over a period of time to be mutually agreed upon by the department and the manufacturer of the product.
- h.* The cost of the technology, product or vehicle component and its installation shall be the responsibility of the manufacturer unless other arrangements are made prior to testing or evaluation.
- i.* An evaluation of the product's performance shall be conducted by department staff, and if the product is determined to meet the criteria listed in paragraphs 44.6(2) "a" to "f," measures shall be taken as soon as practicable to formally approve the product.
- j.* A technology, product or component not recommended for approval by the department shall immediately be removed from vehicles upon which pilot tests were being conducted; and its use shall be discontinued by schools or individuals serving as pilot test sites, upon receipt of written notice from the department of education.

[ARC 1489C, IAB 6/11/14, effective 7/16/14]

These rules are intended to implement Iowa Code sections 285.8 and 321.373.

APPENDIX:

National Highway Traffic Safety Administration
Federal Motor Vehicle Safety Standards
for School Buses and Transit Buses

FMVSS No.	Title of Standard	Transit Buses	School Buses under 10,000# GVWR	School Buses over 10,000# GVWR
101	Controls and Displays	x	x	x
102	Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect	x	x	x
103	Windshield Defrosting and Defogging Systems	x	x	x
104	Windshield Wiping and Washing Systems	x	x	x
105	Hydraulic Brake Systems	x	x	x
106	Brake Hoses	x	x	x
108	Lamps, Reflective Devices, and Associated Equipment	x	x	x
111	Rearview Mirrors	x	x	x
113	Hood Latch System	x	x	x
116	Motor Vehicle Brake Fluids	x	x	x
119	New Pneumatic Tires for Vehicles Other Than Passenger Cars	x	x	x
120	Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars	x	x	x
121	Air Brake Systems	x	x	x
124	Accelerator Control Systems	x	x	x
131	School Bus Pedestrian Safety Devices		x	x
201	Occupant Protection in Interior Impact		x	
202	Head Restraints		x	
203	Impact Protection for the Driver from the Steering Control System		x	
204	Steering Control Rearward Displacement		x	
205	Glazing Materials	x	x	x
207	Seating Systems	x	x	x
208	Occupant Crash Protection	x	x	x
209	Seat Belt Assemblies	x	x	x
210	Seat Belt Assembly Anchorages	x	x	x
212	Windshield Mounting		x	
213	Child Restraint Systems		x	x
214	Side Impact Protection		x	
217	Bus Emergency Exits and Window Retention and Release	x	x	x
219	Windshield Zone Intrusion		x	
220	School Bus Rollover Protection		x	x
221	School Bus Body Joint Strength		x	x
222	School Bus Passenger Seating and Crash Protection		x	x
225	Child Restraint Anchorage Systems		x	

FMVSS 105, 106, 121 Hydraulic Brake Systems, Brake Hoses, Air Brake Systems**Subpart C—Brakes****§393.40 Required brake systems.**

(a) Each commercial motor vehicle must have brakes adequate to stop and hold the vehicle or combination of motor vehicles. Each commercial motor vehicle must meet the applicable service, parking, and emergency brake system requirements provided in this section.

(b) **Service brakes.** (1) **Hydraulic brake systems.** Motor vehicles equipped with hydraulic brake systems and manufactured on or after September 2, 1983, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 105 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 105 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(2) **Air brake systems.** Buses, trucks and truck-tractors equipped with air brake systems and manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 121 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 121 on the date of manufacture must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(3) **Vacuum brake systems.** Motor vehicles equipped with vacuum brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(4) **Electric brake systems.** Motor vehicles equipped with electric brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(c) **Parking brakes.** Each commercial motor vehicle must be equipped with a parking brake system that meets the applicable requirements of §393.41.

(d) **Emergency brakes—partial failure of service brakes.**

(d)(1) **Hydraulic brake systems.** Motor vehicles manufactured on or after September 2, 1983, and equipped with a split service brake system must, at a minimum, meet the partial failure requirements of FMVSS No. 105 in effect on the date of manufacture.

(d)(2) **Air brake systems.** Buses, trucks and truck tractors manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must be equipped with an emergency brake system which, at a minimum, meets the requirements of FMVSS No. 121 in effect on the date of manufacture.

(d)(3) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** Buses, trucks and truck tractors not subject to FMVSS Nos. 105 or 121 on the date of manufacture must meet the requirements of §393.40(e). Trailers not subject to FMVSS No. 121 at the time of manufacture must meet the requirements of §393.43.

(e) **Emergency brakes, vehicles manufactured on or after July 1, 1973.** (1) A bus, truck, truck tractor, or a combination of motor vehicles manufactured on or after July 1, 1973, and not covered under paragraphs (d)(1) or (d)(2) of this section, must have an emergency brake system which consists of emergency features of the service brake system or an emergency system separate from the service brake system. The emergency brake system must meet the applicable requirements of §§393.43 and 393.52.

(e)(2) A control by which the driver applies the emergency brake system must be located so that the driver can operate it from the normal seating position while restrained by any seat belts with which the vehicle is equipped. The emergency brake control may be combined with either the service brake control or the parking brake control. However, all three controls may not be combined.

(f) **Interconnected systems.** (1) If the brake systems required by §393.40(a) are interconnected in any way, they must be designed, constructed, and maintained so that in the event of a failure of any part of the operating mechanism of one or more of the systems (except the service brake actuation pedal or valve), the motor vehicle will have operative brakes and, for vehicles manufactured on or after July 1, 1973, be capable of meeting the requirements of §393.52(b).

(f)(2) A motor vehicle to which the requirements of FMVSS No. 105 (S5.1.2), dealing with partial failure of the service brake, applied at the time of manufacture meets the requirements of §393.40(f)(1) if the motor vehicle is maintained in conformity with FMVSS No. 105 and the motor vehicle is capable of meeting the requirements of §393.52(b), except in the case of a structural failure of the brake master cylinder body.

(f)(3) A bus is considered to meet the requirements of §393.40(f)(1) if it meets the requirements of §393.44 and §393.52(b).

§393.51 Warning signals, air pressure and vacuum gauges.

(a) **General rule.** Every bus, truck and truck tractor, except as provided in paragraph (f), must be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's service brake system. The warning signal must meet the applicable requirements of paragraphs (b), (c), (d) or (e) of this section.

(b) **Hydraulic brakes.** Vehicles manufactured on or after September 1, 1975, must meet the brake system indicator lamp requirements of FMVSS No. 571.105 (S5.3) applicable to the vehicle on the date of manufacture. Vehicles manufactured on or after July 1, 1973, but before September 1, 1975, or to which FMVSS No. 571.105 was not applicable on the date of manufacture, must have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The signal must be either visible within the driver's forward field of view or audible. The signal must be continuous. (Note: FMVSS No. 105 was applicable to trucks and buses from September 1, 1975, to October 12, 1976, and from September 1, 1983, to the present. FMVSS No. 105 was not applicable to trucks and buses manufactured between October 12, 1976, and September 1, 1983. Motor carriers have the option of equipping those vehicles to meet either the indicator lamp requirements of FMVSS No. 105, or the indicator lamp requirements specified in this paragraph for vehicles which were not subject to FMVSS No. 105 on the date of manufacture.)

(c) **Air brakes.** A commercial motor vehicle (regardless of the date of manufacture) equipped with service brakes activated by compressed air (air brakes) or a commercial motor vehicle towing a vehicle with service brakes activated by compressed air (air brakes) must be equipped with a pressure gauge and a warning signal. Trucks, truck tractors, and buses manufactured on or after March 1, 1975, must, at a minimum, have a pressure gauge and a warning signal which meets the requirements of FMVSS No. 121 (S5.1.4 for the pressure gauge and S5.1.5 for the warning signal) applicable to the vehicle on the date of manufacture of the vehicle. Power units to which FMVSS No. 571.121 was not applicable on the date of manufacture of the vehicle must be equipped with:

(c)(1) A pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and

(c)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

(d) **Vacuum brakes.** A commercial motor vehicle (regardless of the date it was manufactured) having service brakes activated by vacuum or a vehicle towing a vehicle having service brakes activated by vacuum must be equipped with:

(d)(1) A vacuum gauge, visible to a person seated in the normal driving position, which indicates the vacuum (in millimeters or inches of mercury) available for braking; and

(d)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the vacuum in the vehicle's supply reservoir is less than 203 mm (8 inches) of mercury.

(e) **Hydraulic brakes applied or assisted by air or vacuum.** Each vehicle equipped with hydraulically activated service brakes which are applied or assisted by compressed air or vacuum, and to which FMVSS No. 105 was not applicable on the date of manufacture, must be equipped with a warning signal that conforms to paragraph (b) of this section for the hydraulic portion of the system; paragraph (c) of this section for the air assist/air applied portion; or paragraph (d) of this section for the vacuum assist/vacuum applied portion. This paragraph shall not be construed as requiring air pressure gauges or vacuum gauges, only warning signals.

(f) **Exceptions.** The rules in paragraphs (c), (d) and (e) of this section do not apply to property carrying commercial motor vehicles which have less than three axles and (1) were manufactured before July 1, 1973, and (2) have a manufacturer's gross vehicle weight rating less than 4,536 kg (10,001 pounds).

§393.55 Antilock brake systems.

(a) **Hydraulic brake systems.** Each truck and bus manufactured on or after March 1, 1999 (except trucks and buses engaged in driveaway-towaway operations), and equipped with a hydraulic brake system, shall be equipped with an antilock brake system that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, S5.5).

(b) **ABS malfunction indicators for hydraulic braked vehicles.** Each hydraulic braked vehicle subject to the requirements of paragraph (a) of this section shall be equipped with an ABS malfunction indicator system that meets the requirements of FMVSS No. 105 (49 CFR 571.105, S5.3).

(c) **Air brake systems.** (1) Each truck tractor manufactured on or after March 1, 1997 (except truck tractors engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(b)).

(c)(2) Each air braked commercial motor vehicle other than a truck tractor, manufactured on or after March 1, 1998 (except commercial motor vehicles engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(a) for trucks and buses, S5.2.3 for semitrailers, converter dollies and full trailers).

(d) **ABS malfunction circuits and signals for air braked vehicles.** (1) Each truck tractor manufactured on or after March 1, 1997, and each single-unit air braked vehicle manufactured on or after March 1, 1998, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction that affects the generation or transmission of response or control signals to the vehicle's antilock brake system (49 CFR 571.121, S5.1.6.2(a)).

(d)(2) Each truck tractor manufactured on or after March 1, 2001, and each single-unit vehicle that is equipped to tow another air-braked vehicle, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on the towed vehicle(s) to the trailer ABS malfunction lamp in the cab of the towing vehicle, and shall have the means for connection of the electrical circuit to the towed vehicle. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.2(b)).

(d)(3) Each semitrailer, trailer converter dolly, and full trailer manufactured on or after March 1, 2001, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer's antilock brake system, and shall have the means for connection of this ABS malfunction circuit to the towing vehicle. In addition, each trailer manufactured on or after March 1, 2001, subject to the requirements of paragraph (c)(2) of this section, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of the trailer(s) it tows to the vehicle in front of the trailer. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.2).

(e) **Exterior ABS malfunction indicator lamps for trailers.** Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an ABS malfunction indicator lamp which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3).

§393.41 Parking brake system.

(a) **Hydraulic-braked vehicles manufactured on or after September 2, 1983.** Each truck and bus (other than a school bus) with a GVWR of 4,536 kg (10,000 pounds) or less which is subject to this part and school buses with a GVWR greater than 4,536 kg (10,000 pounds) shall be equipped with a parking brake system as required by FMVSS No. 571.105 (S5.2) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). Hydraulic-braked

vehicles which were not subject to the parking brake requirements of FMVSS No. 571.105 (S5.2) must be equipped with a parking brake system that meets the requirements of paragraph (c) of this section.

(b) **Air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Each air-braked bus, truck and truck tractor manufactured on and after March 1, 1975, and each air-braked trailer except an agricultural commodity trailer, converter dolly, heavy hauler trailer or pulpwood trailer, shall be equipped with a parking brake system as required by FMVSS No. 121 (S5.6) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). An agricultural commodity trailer, heavy hauler or pulpwood trailer shall carry sufficient chocking blocks to prevent movement when parked.

(c) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** (1) Each singly driven motor vehicle not subject to parking brake requirements of FMVSS Nos. 105 or 121 at the time of manufacturer, and every combination of motor vehicles must be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading in which it is found on a public road (free of ice and snow).

(c)(2) The parking brake system shall, at all times, be capable of being applied by either the driver's muscular effort or by spring action. If other energy is used to apply the parking brake, there must be an accumulation of that energy isolated from any common source and used exclusively for the operation of the parking brake.

Exception: This paragraph shall not be applicable to air-applied, mechanically-held parking brake systems which meet the parking brake requirements of FMVSS No. 121 (S5.6).

(c)(3) The parking brake system shall be held in the applied position by energy other than fluid pressure, air pressure, or electric energy. The parking brake system shall not be capable of being released unless adequate energy is available to immediately reapply the parking brake with the required effectiveness.

§393.45 Brake tubing and hoses; hose assemblies and end fittings.

(a) **General construction requirements for tubing and hoses, assemblies, and end fittings.** All brake tubing and hoses, brake hose assemblies, and brake hose end fittings must meet the applicable requirements of FMVSS No. 106 (49 CFR 571.106).

(b) **Brake tubing and hose installation.** Brake tubing and hose must:

(b)(1) Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

(b)(2) Be secured against chaffing, kinking, or other mechanical damage; and

(b)(3) Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

(c) **Nonmetallic brake tubing.** Coiled nonmetallic brake tubing may be used for connections between towed and towing motor vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of the motor vehicle if:

(c)(1) The coiled tubing has a straight segment (pigtail) at each end that is at least 51 mm (2 inches) in length and is encased in a spring guard or similar device which prevents the tubing from kinking at the fitting at which it is attached to the vehicle; and

(c)(2) The spring guard or similar device has at least 51 mm (2 inches) of closed coils or similar surface at its interface with the fitting and extends at least 38 mm (1½ inches) into the coiled segment of the tubing from its straight segment.

(d) **Brake tubing and hose connections.** All connections for air, vacuum, or hydraulic braking systems shall be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system.

§393.50 Reservoirs required.

(a) **Reservoir capacity for air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Buses, trucks, and truck-tractors manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975, must meet the reservoir requirements of FMVSS No. 121, S5.1.2, in effect on the date of manufacture.

(b) **Reservoir capacity for air-braked vehicles not subject to FMVSS No. 121 on the date of manufacture and all vacuum braked vehicles.** Each motor vehicle using air or vacuum braking must have either reserve capacity, or a reservoir, that would enable the driver to make a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by the air or vacuum gauge immediately before the brake application is made. For the purposes of this paragraph, a full service brake application means depressing the brake pedal or treadle valve to the limit of its travel.

(c) **Safeguarding of air and vacuum.** Each service reservoir system on a motor vehicle shall be protected against a loss of air pressure or vacuum due to a failure or leakage in the system between the service reservoir and the source of air pressure or vacuum, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air or vacuum line, or fitting.

(d) **Drain valves for air braked vehicles.** Each reservoir must have a condensate drain valve that can be manually operated. Automatic condensate drain valves may be used provided (1) they may be operated manually, or (2) a manual means of draining the reservoirs is retained.

FMVSS 301 Fuel System Integrity

§393.67 Liquid fuel tanks.

(a) **Application of the rules in this section.** The rules in this section apply to tanks containing or supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles.

(a)(1) A liquid fuel tank manufactured on or after January 1, 1973, and a side mounted gasoline tank must conform to all the rules in this section.

(a)(2) A diesel fuel tank manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(7)(iii) and (d)(2) of this section.

(a)(3) A diesel fuel tank manufactured before January 1, 1973, and mounted on a vehicle other than bus must conform to the rules in paragraph (c)(7)(iii) of this section.

(a)(4) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(1) through (10) and (d)(2) of this section.

(a)(5) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a vehicle other than a bus must conform to the rules in paragraphs (c)(1) through (10), inclusive, of this section.

(a)(6) **Private motor carrier of passengers.** Motor carriers engaged in the private transportation of passengers may continue to operate a commercial motor vehicle which was not subject to this section or 49 CFR §571.301 at the time of its manufacture, provided the fuel tank of such vehicle is maintained to the original manufacturer's standards.

(a)(7) Motor vehicles that meet the fuel system integrity requirements of 49 CFR 571.301 are exempt from the requirements of this subpart, as they apply to the vehicle's fueling system.

(b) **Definitions.** As used in this section:

(b)(1) The term "liquid fuel tank" means a fuel tank designed to contain a fuel that is liquid at normal atmospheric pressures and temperatures.

(b)(2) A "side-mounted" fuel tank is a liquid fuel tank which:

(b)(2)(i) If mounted on a truck tractor, extends outboard of the vehicle frame and outside of the plan view outline of the cab; or

(b)(2)(ii) If mounted on a truck, extends outboard of a line parallel to the longitudinal centerline of the truck and tangent to the outboard side of a front tire in a straight ahead position. In determining whether a fuel tank on a truck or truck tractor is side mounted, the fill pipe is not considered a part of the tank.

(c) **Construction of liquid fuel tanks.**

(c)(1) **Joints.** Joints of a fuel tank body must be closed by arc, gas, seam, or spot welding, by brazing, by silver soldering, or by techniques which provide heat resistance and mechanical securement at least

equal to those specifically named. Joints must not be closed solely by crimping or by soldering with a lead based or other soft solder.

(c)(2) **Fittings.** The fuel tank body must have flanges or spuds suitable for the installation of all fittings.

(c)(3) **Threads.** The threads of all fittings must be Dryseal American Standard Taper Pipe Thread or Dryseal SAE Short Taper Pipe Thread, specified in Society of Automotive Engineers Standard J476, as contained in the 1971 edition of the "SAE Handbook", except that straight (non tapered) threads may be used on fittings having integral flanges and using gaskets for sealing. At least four full threads must be in engagement in each fitting.

(c)(4) **Drains and bottom fittings.**

(c)(4)(i) Drains or other bottom fittings must not extend more than 3/4 of an inch below the lowest part of the fuel tank or sump.

(c)(4)(ii) Drains or other bottom fittings must be protected against damage from impact.

(c)(4)(iii) If a fuel tank has drains the drain fittings must permit substantially complete drainage of the tank.

(c)(4)(iv) Drains or other bottom fittings must be installed in a flange or spud designed to accommodate it.

(c)(5) **Fuel withdrawal fittings.** Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of fuel in the tank when the tank is full.

(c)(6) [Reserved]

(c)(7) **Fill pipe.**

(c)(7)(i) Each fill pipe must be designed and constructed to minimize the risk of fuel spillage during fueling operations and when the vehicle is involved in a crash.

(c)(7)(ii) For diesel-fueled vehicles, the fill pipe and vents of a fuel tank having a capacity of more than 94.75 L (25 gallons) of fuel must permit filling the tank with fuel at a rate of at least 75.8 L/m (20 gallons per minute) without fuel spillage.

(c)(7)(iii) For gasoline- and methanol-fueled vehicles with a GVWR of 3,744 kg (8,500 pounds) or less, the vehicle must permit filling the tank with fuel dispensed at the applicable fill rate required by the regulations of the Environmental Protection Agency under 40 CFR 80.22.

(c)(7)(iv) For gasoline- and methanol-fueled vehicles with a GVWR of 14,000 pounds (6,400 kg) or less, the vehicle must comply with the applicable fuel-spitback prevention and onboard refueling vapor recovery regulations of the Environmental Protection Agency under 40 CFR part 86.

(c)(7)(v) Each fill pipe must be fitted with a cap that can be fastened securely over the opening in the fill pipe. Screw threads or a bayonet-type point are methods of conforming to the requirements of paragraph (c) of this section.

(c)(8) **Safety venting system.** A liquid fuel tank with a capacity of more than 25 gallons of fuel must have a venting system which, in the event the tank is subjected to fire, will prevent internal tank pressure from rupturing the tank's body, seams, or bottom opening (if any).

(c)(9) **Pressure resistance.** The body and fittings of a liquid fuel tank with a capacity of more than 25 gallons of fuel must be capable of withstanding an internal hydrostatic pressure equal to 150% of the maximum internal pressure reached in the tank during the safety venting systems test specified in paragraph (d)(1) of this section.

(c)(10) **Air vent.** Each fuel tank must be equipped with a nonspill air vent (such as a ball check). The air vent may be combined with the fill pipe cap or safety vent, or it may be a separate unit installed on the fuel tank.

(c)(11) **Markings.** If the body of the fuel tank is readily visible when the tank is installed on the vehicle, the tank must be plainly marked with its liquid capacity. The tank must also be plainly marked with a warning against filling it to more than 95% of its liquid capacity.

(c)(12) **Overfill restriction.** A liquid fuel tank manufactured on or after January 1, 1973, must be designed and constructed so that:

(c)(12)(i) The tank cannot be filled, in a normal filling operation, with a quantity of fuel that exceeds 95% of the tank's liquid capacity; and

(c)(12)(ii) When the tank is filled, normal expansion of the fuel will not cause fuel spillage.

(d) **Liquid fuel tank tests.** Each liquid fuel tank must be capable of passing the tests specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance standards may be used.

(d)(1) **Safety venting system test.**

(d)(1)(i) **Procedure.** Fill the tank three fourths full with fuel, seal the fuel feed outlet, and invert the tank. When the fuel temperature is between 50°F and 80°F, apply an enveloping flame to the tank so that the temperature of the fuel rises at a rate of not less than 6°F and not more than 8°F per minute.

(d)(1)(ii) **Required performance.** The safety venting system required by paragraph (c)(8) of this section must activate before the internal pressure in the tank exceeds 50 pounds per square inch, gauge, and the internal pressure must not thereafter exceed the pressure at which the system activated by more than five pounds per square inch despite any further increase in the temperature of the fuel.

(d)(2) **Leakage test.**

(d)(2)(i) **Procedure.** Fill the tank to capacity with fuel having a temperature between 50°F and 80°F. With the fill pipe cap installed, turn the tank through an angle of 150° in any direction about any axis from its normal position.

(d)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of one ounce by weight of fuel per minute in any position the tank assumes during the test.

(e) **Side-mounted liquid fuel tank tests.** Each side-mounted liquid fuel tank must be capable of passing the tests specified in paragraphs (e)(1) and (2) of this section and the test specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance criteria may be used.

(e)(1) **Drop test.**

(e)(1)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 30 feet onto an unyielding surface so that it lands squarely on one corner.

(e)(1)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(e)(2) **Fill-pipe test.**

(e)(2)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 10 feet onto an unyielding surface so that it lands squarely on its fill-pipe.

(e)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(f) **Certification and markings.** Each liquid fuel tank shall be legibly and permanently marked by the manufacturer with the following minimum information:

(f)(1) The month and year of manufacture,

(f)(2) The manufacturer's name on tanks manufactured on and after July 1, 1989, and means of identifying the facility at which the tank was manufactured, and

(f)(3) A certificate that it conforms to the rules in this section applicable to the tank. The certificate must be in the form set forth in either of the following:

(f)(3)(i) If a tank conforms to all rules in this section pertaining to side mounted fuel tanks: "Meets all FMCSA sidemounted tank requirements."

(f)(3)(ii) If a tank conforms to all rules in this section pertaining to tanks which are not side mounted fuel tanks: "Meets all FMCSA requirements for non side mounted fuel tanks."

(f)(3)(iii) The form of certificate specified in paragraph (f)(3)(i) or (ii) of this section may be used on a liquid fuel tank manufactured before July 11, 1973, but it is not mandatory for liquid fuel tanks manufactured before March 7, 1989. The form of certification manufactured on or before March 7, 1989, must meet the requirements in effect at the time of manufacture.

(f)(4) **Exception.** The following previously exempted vehicles are not required to carry the certification and marking specified in paragraphs (f)(1) through (3) of this section:

(f)(4)(i) Ford vehicles with GVWR over 10,000 pounds identified as follows: The vehicle identification numbers (VINs) contain A, K, L, M, N, W, or X in the fourth position.

(f)(4)(ii) GM G-Vans (Chevrolet Express and GMC Savanna) and full-sized C/K trucks (Chevrolet Silverado and GMC Sierra) with GVWR over 10,000 pounds identified as follows: The VINs contain either a “J” or a “K” in the fourth position. In addition, the seventh position of the VINs on the G-Van will contain a “1.”

[36 FR 15445, Aug. 14, 1971, as amended at 37 FR 4341, Mar. 2, 1972; 37 FR 28753, Dec. 29, 1972; 45 FR 46424, July 10, 1980; 53 FR 49400, Dec. 7, 1988; 59 FR 8753, Feb. 23, 1994; 66 FR 49874, Oct. 1, 2001; 69 FR 31305, June 3, 2004; 70 FR 48053, Aug. 15, 2005]

[Filed 7/1/52; amended 2/13/68, 6/24/69, 8/17/73, 12/21/73, 6/24/75]

[Filed 2/2/76, Notice 12/29/75—published 2/9/76, effective 3/15/76]

[Filed 5/11/79, Notice 3/21/79—published 5/30/79, effective 7/4/79]

[Filed 7/19/88, Notice 6/1/88—published 8/10/88, effective 9/14/88]

[Filed emergency 1/12/89—published 2/8/89, effective 1/12/89]

[Filed emergency 4/13/89—published 5/3/89, effective 4/14/89]

[Filed 4/13/89, Notice 2/8/89—published 5/3/89, effective 6/7/89]

[Filed emergency 1/17/90—published 2/7/90, effective 1/17/90]

[Filed 4/13/90, Notice 2/7/90—published 5/2/90, effective 6/6/90]

[Filed 9/16/98, Notice 6/17/98—published 10/7/98, effective 11/11/98]

[Filed 9/19/06, Notice 6/7/06—published 10/11/06, effective 11/15/06]

[Filed ARC 9263B (Notice ARC 9145B, IAB 10/6/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 1489C (Notice ARC 1409C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

281—64.1(256A,279) Purpose. These rules structure the child development coordinating council, whose purpose is to promote the provision of services to at-risk three- and four-year-old children and public school child development programs for at-risk three-, four-, and five-year-old children. These rules also set forth the procedures and conditions under which state funds shall be made available to assist local child development programs for at-risk children.

281—64.2(256A,279) Definitions.

“Applicant” means a public or private nonprofit organization, licensed by the department of human services or approved by the department of education, which applies for the state child development funds.

“At-risk student” means a student who meets one or more of the primary and secondary risk factors stated in rules 281—64.7(256A,279) and 281—64.8(256A,279).

“Child development grants” means the funds awarded by the council to assist child development programs.

“Council” means the child development coordinating council.

“Department” means the department of education.

“Grantee” means the applicant designated to receive child development grants.

“Low-income family” means a family who meets the financial eligibility criteria for free meals offered under the child nutrition program.

“Project” means the child development program for which grant funds are requested.

“Public school applicant” means a public school district approved by the department which applies for the state public school child development funds.

“Public school child development grants” means the funds awarded by the council to assist public school child development programs as established in Iowa Code section 279.51.

“Public school grantee” means the applicant designated to receive public school child development grants.

“Public school project” means the public school child development program for which grant funds are requested.

281—64.3(256A,279) Child development coordinating council. The council members shall be as provided in Iowa Code section 256A.2. The Iowa resident parent shall be chosen by the Head Start director’s association in consultation with the Head Start parents’ association.

281—64.4(256A,279) Procedures.

64.4(1) A quorum shall consist of two-thirds of the members.

64.4(2) When a quorum is present, a position shall pass when approved by a majority of voting members.

64.4(3) The council shall meet at least four times per year and may meet more often at the call of the chair or a majority of voting members.

64.4(4) The chairperson and vice-chair shall be elected by the council for a term of two years.

281—64.5(256A,279) Duties. The duties of the council shall be as provided in Iowa Code sections 256A.3 and 279.51.

281—64.6(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council shall grant awards to child development programs for at-risk three- and four-year-old children and public school child development programs for at-risk three-, four-, and five-year-old children on a competitive basis. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the department may discontinue grant funding at the start of the following fiscal year.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.7(256A,279) Primary eligibility.

64.7(1) *Child development grants.* At least 80 percent of the funded available enrollment slots for at-risk three- and four-year-old children shall be directed to serve children in primary eligibility categories as follows:

- a. Children reaching three or four years of age on or before September 15 of the contract year; and
- b. Members of a low-income family.

64.7(2) *Public school child development grants.* At least 80 percent of the funded available enrollment for at-risk three-, four-, and five-year-old children in public school child development programs shall be directed to serve children in primary eligibility categories as follows:

- a. Children reaching three, four, or five years of age on or before September 15 of the contract year; and
- b. Members of a low-income family.

64.7(3) *Enrollment criteria.* Applicants must document the number of children enrolled under primary eligibility and the criteria used for enrollment.

281—64.8(256A,279) Secondary eligibility.

64.8(1) *Criteria.* Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule determined at the local level; and are eligible according to one or more of the following criteria if the child:

1. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;
2. Was born at biological risk, such as low birth weight (under 1500 grams—approximately three pounds) or with a diagnosed medical disorder, such as spina bifida or Down's syndrome;
3. Was born to a parent who was under the age of 18; or
4. Resides in a household where one or more of the parents or guardian:
 - Has not completed high school;
 - Has been identified as a substance abuser;
 - Has been identified as chronically mentally ill;
 - Is illiterate;
 - Is incarcerated; or
 - Is a child or spouse abuser.
5. Has other special circumstances, such as foster care or being homeless.

The program may include children not at risk, provided they are at full pay and meet other age requirements.

64.8(2) *Enrollment criteria.* Applicants must document the number of children enrolled under secondary eligibility and the criteria used for enrollment.

281—64.9(256A,279) Grant awards criteria.

64.9(1) *Criteria points.* The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Provision of a comprehensive child development program.
2. Limited class size.
3. Child-teacher ratios of not less than one staff member per eight children.
4. Provision of parental involvement.
5. Demonstration of community support.
6. Utilization of services provided by other community agencies.
7. Use of qualified teachers.
8. Existence of a plan for program evaluation including, but not limited to, measurement of student outcomes.

9. Developmentally appropriate practices.

64.9(2) Additional grant components. The following information shall be provided and points shall be awarded to applicants based on the following additional components.

1. Program summary.
2. Research documentation.
3. Identification and documentation of local at-risk population.
4. Letters of community support.
5. Program budget (administrative costs not to exceed 10 percent of total award).

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.10(256A,279) Application process. The council shall advise the department to announce through public notice the opening of an application period.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.11(256A,279) Request for proposals. Applications for the child development grants and public school grants shall be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date may not be considered. All applications shall be submitted in accordance with instructions in the requests for proposals. The proposals shall be submitted to the department.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.12(256A,279) Grant process.

64.12(1) An applicant shall make formal response using forms issued and procedures established by the council.

64.12(2) A rating team shall review and rank the proposals and shall be composed of persons with expertise in child development programs and fiscal management experience.

64.12(3) The council shall have the final discretion to award funds.

64.12(4) The council shall advise the department to notify successful applicants and to provide to each of them a contract for signature.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.13(256A,279) Award contracts. Administrative costs under these programs shall be limited to 10 percent of the total award.

281—64.14(256A,279) Notification of applicants. Applicants shall be notified within 45 days following the due date for receipt of proposals as to whether their request shall be funded.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.15(256A,279) Grantee responsibilities.

64.15(1) The grantee shall maintain records which include but are not limited to:

- a. Information on children and families served.
- b. Direct services provided to children.
- c. Record of expenditures.
- d. Other appropriate information specified by the council necessary to the overall evaluation.

Monitoring of such records will be conducted through the submission of annual reports by the grantee and may include on-site review as determined necessary by the department.

64.15(2) New/expansion programs shall participate in the accreditation process of the National Association for the Education of Young Children during the programs' first year of funding. New/expansion programs shall be granted a waiver of accreditation during their first year of funding and must attain accreditation during their second year of funding. Programs not able to attain accreditation during their second year may apply for a waiver of accreditation by March 15 of the current fiscal year. Waivers shall be granted at the discretion of the council. Programs that do not attain accreditation or that do not receive a waiver will not be funded.

64.15(3) Continuation programs shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children. Programs unable to maintain accreditation may apply for a waiver of accreditation. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

64.15(4) Grantees shall provide annual reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee until the time that the report is received. No new awards shall be made for continuation programs when there are delinquent reports from prior grants.

64.15(5) Grantees may direct the use of moneys received to serve any qualifying child ranging in age from three years old to five years old, regardless of the age of population indicated on the grant request in the grantee's initial year of application. A grantee is encouraged to consider the degree to which the program complements existing local programs and services for three-year-old, four-year-old, and five-year-old at-risk children, including other child care and preschool services, services provided through a school district, and services available through an area education agency.

[ARC 9904B, IAB 12/14/11, effective 1/18/12; ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.16(256A,279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the council may withdraw the award offer.

281—64.17(256A,279) Evaluation. The grantee shall cooperate with the council and provide requested information to determine how well the goals and objectives of the project are being met.

281—64.18(256A,279) Contract revisions and budget reversions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category. Grantees who revert 3 percent or more of their program budget at the end of the budget year will have that dollar amount permanently deducted from all subsequent grant awards.

[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.19(256A,279) Termination for convenience. The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties shall agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible.

281—64.20(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the child development grants and public school grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts shall be terminated or renegotiated. The council may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

The contract may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation by the National Association for the Education of Young Children or has not been awarded a waiver of accreditation by the council.
[ARC 1488C, IAB 6/11/14, effective 7/16/14]

281—64.21(256A,279) Responsibility of grantee at termination. Within 45 days of the termination, the grantee shall supply the department with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends money for other than specified budget items approved by the council, the grantee shall return moneys for unapproved expenditures.

281—64.22(256A,279) Appeal from terminations. Any agency or public school aggrieved by a unilateral termination of a contract pursuant to 281—64.20(256A,279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate. The hearing procedures found at 281—Chapter 6 shall be applicable to appeals of terminated grantees, except that 281—subrules 6.10(3) and 6.10(4) and rules 281—6.11(290) and 281—6.12(290) do not apply to decisions of the director.

In the notice of appeal, the grantee shall give a short and plain statement of the reason for the appeal.

The director shall issue a decision within a reasonable time, not to exceed 120 days from the date of the hearing.

281—64.23(256A,279) Refusal to issue ruling. The director may refuse to issue a ruling or decision upon an appeal for good cause. Good cause includes, but is not limited to, the following reasons:

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the required form or is based upon frivolous grounds;
4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties;
5. The termination of the grant was beyond the control of the department because it was due to lack of funds available for the contract.

281—64.24(256A,279) Request for Reconsideration. A disappointed applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within 10 days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

1. The decision process was conducted in violation of statute or rule;
2. The decision violates state or federal law, policy, or rule (to be cited in the Request);
3. The decision process involved a conflict of interest.

Within 20 days of filing a Request for Reconsideration, the requester shall submit all written documentation, evidence, or argument in support of the request. The director shall notify the child development coordinating council of the request and shall provide the council an opportunity to defend its decision with written documentation, evidence, or argument, which shall be submitted within 20 days of receipt of the request. The council shall provide copies of all documents to the requester at the time the items are submitted to the director.

The director shall issue a decision granting or denying the Request for Reconsideration within 30 days of the receipt of the evidence, or no later than 60 days from the date of Request for Reconsideration, unless a later date is agreeable to the requester and the council.

281—64.25(256A,279) Refusal to issue decision on request. The director may refuse to issue a decision on a Request for Reconsideration upon good cause. Good cause includes, but is not limited to, the following reasons:

1. The request was untimely;
2. The requester lacks standing to seek reconsideration;

3. The request is not based on any of the available grounds in rule 281—64.22(256A,279), or is merely frivolous or vexatious;
4. The requester failed to provide documentation, evidence or argument in support of its request;
5. The request is moot due to negotiation and settlement of the issue(s).

281—64.26(256A,279) Granting a Request for Reconsideration. If the director grants a Request for Reconsideration, the council shall consider the grantee's application in accordance with the director's findings and decision.

These rules are intended to implement Iowa Code chapter 256A and section 279.51.

[Filed emergency 9/16/88—published 10/5/88, effective 9/16/88]

[Filed 12/8/88, Notice 10/5/88—published 12/28/88, effective 2/1/89]

[Filed emergency 2/10/89—published 3/8/89, effective 2/10/89]

[Filed emergency 1/5/90, after Notice 11/1/89—published 1/24/90, effective 1/5/90]

[Filed emergency 2/15/91—published 3/6/91, effective 2/15/91]

[Filed 4/12/91, Notice 3/6/91—published 5/1/91, effective 6/5/91]

[Filed 12/19/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]

[Filed 4/15/94, Notice 3/2/94—published 5/11/94, effective 6/15/94]

[Filed 8/10/98, Notice 4/8/98—published 9/9/98, effective 10/14/98]

[Filed ARC 9904B (Notice ARC 9792B, IAB 10/5/11), IAB 12/14/11, effective 1/18/12]

[Filed ARC 1488C (Notice ARC 1394C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 67
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF AT-RISK CHILDREN AGED BIRTH THROUGH FIVE YEARS

281—67.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to school districts, area education agencies or other agencies which administer quality educational support services to parents of at-risk children aged birth through five years.
[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.2(279) Definitions.

“Applicant” means a public school district, area education agency or an agency which applies for the funds to provide quality educational support programs to parents of at-risk children aged birth through five years, with an emphasis on parents of children aged birth through three years.

“At-risk children” means children birth through age five who are at risk because of physical or environmental influence.

“Council” means the child development coordinating council.

“Department” means the department of education.

“Early intervention interagency council” means the community early intervention interagency councils for infants and toddlers with disabilities and their families formed to assist with the implementation of P.L. 99-457, Part H, which amends P.L. 94-142, Education of the Handicapped Act.

“Educational support services” means individual or group opportunities providing information to parents which focuses on: parenting skills, child growth and development, building of self-concept, nutrition, positive guidance techniques, family resource management, parent literacy, and how to access the array of supportive services from a network of agencies that are available to families with young children who are at risk.

“Grantee” means the applicant designated to receive the grants for educational support services to parents of at-risk children aged birth through five years.

“Parent” means biological, adoptive, surrogate, foster parent, or guardian.

“Quality educational support services” means educational support services that have a qualified or trained staff to provide a program which meets the needs of parents through the use of a validated curriculum or which is based on a model project which has proven successful in another state or location.
[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department shall grant awards to applicants for the provision of educational support services to parents of at-risk children aged birth through five years with priority to applicants that serve parents of at-risk children aged birth through three years. Funds shall be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of at-risk children aged birth through five years. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee’s meeting program requirements. If program requirements are not met, the department may discontinue grant funding at the start of the following fiscal year.
[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.4(279) Eligibility. The available funds shall be directed to serve parents of at-risk children aged birth through five years in the primary eligibility category as follows:

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals in a local school or whose total income is, or is projected to be, equal to or less than 125 percent of the federally established poverty guidelines.
[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.5(279) Secondary eligibility. The available funds shall be directed to serve parents of at-risk children aged birth through five years when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with an established biological risk factor, such as very low birth weight (under 1500 grams—approximately three pounds) or with conditions such as spina bifida, Down's syndrome or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardian:
 - Has not completed high school;
 - Has been identified as a substance abuser;
 - Has been identified as chronically mentally ill;
 - Is incarcerated;
 - Is illiterate;
 - Is a child abuser or spouse abuser; or
 - Has limited English proficiency.
6. Children having other special circumstances, such as foster care or being homeless.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.6(279) Grant awards criteria.

67.6(1) Criteria points. The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Identification of parents of at-risk children.
2. Positive family focus.
3. Educational support programs to provide family services.
4. Community and interagency coordination.
5. Overall program evaluation.
6. Letters of community support.
7. Program budget (administrative) costs not to exceed 10 percent of total award.

67.6(2) Additional grant components. The following information shall be provided and points shall be awarded to applicants based on the following additional components.

1. Documentation of a need for this project.
2. Justification of how this project will utilize services from other agencies and how this project will supplement services to the eligible population.
3. Identification of the curriculum to be used or the model to be replicated.
4. Demonstration that persons qualified to administer these educational support services to parents will be employed.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.7(279) Application process. The department shall announce through public notice the opening of an application period.

281—67.8(279) Request for proposals. Applications for the educational support services to parents of at-risk children aged birth through five years grants shall be distributed by the department upon request.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.9(279) Award contracts.

67.9(1) Grants for educational support services to parents of at-risk children aged birth through five years shall not supplant other existing funding sources.

67.9(2) Administrative costs shall be limited to 10 percent of the total award.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.10(279) Notification of applicants. Applicants shall be notified of the department's decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations

may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.11(279) Grantee responsibilities. The grantee shall maintain records which include, but are not limited to:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support service provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.

7. Record of expenditures and an annual audit.

8. Other information specified by the department necessary to the overall evaluation.

Grantees shall complete a year-end report on forms provided by the department documenting the information outlined in this rule. The final project report is due 30 days after the completion of the project as defined in the contract with the department.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.12(279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the department may withdraw the award offer.

281—67.13(279) Evaluation. The grantee shall cooperate with the department and provide requested information to determine how well the goals and objectives of the project are being met.

281—67.14(279) Contract revisions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. The council may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category.

[ARC 1487C, IAB 6/11/14, effective 7/16/14]

281—67.15(279) Termination for convenience. The contract may be terminated, in whole or in part, upon agreement of both parties. The parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

281—67.16(279) Termination for cause. The contract may be terminated, in whole or in part, at any time before the date of completion, whenever it is determined by the department that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the educational support services grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of these grants, the contracts shall be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

281—67.17(279) Responsibility of grantee at termination. Within 45 days of the effective date of termination, the grantee shall supply the department with a financial statement detailing all program

expenditures up to the effective date of the termination. The grantee shall be solely responsible for all expenditures after the effective date of termination.

281—67.18(279) Appeal from terminations. Any agency or public school aggrieved by a unilateral termination of a contract pursuant to rule 281—67.16(279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate. The hearing procedures found at 281—Chapter 6 shall be applicable to appeals of terminated grantees.

In the notice of appeal, the grantee shall give a short and plain statement of the reason for the appeal.

281—67.19(279) Refusal to issue ruling. The director may refuse to issue a ruling or decision upon an appeal for good cause. Good cause includes, but is not limited to, the following reasons:

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the required form or is based upon frivolous grounds;
4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties;
5. The termination of the grant was beyond the control of the department because it was due to lack of funds available for the contract.

281—67.20(279) Request for Reconsideration. A disappointed applicant who has not been approved for funding may file a Request for Reconsideration with the director of the department in writing within 10 days of the decision to decline to award a grant. In order to be considered by the director, the Request for Reconsideration shall be based upon one of the following grounds:

1. The decision process was conducted in violation of statute or rule;
2. The decision violates state or federal law, policy, or rule (to be cited in the Request);
3. The decision process involved a conflict of interest.

Within 20 days of filing a Request for Reconsideration, the requester shall submit all written documentation, evidence, or argument in support of the request. The director shall notify the child development coordinating council of the request and shall provide the council an opportunity to defend its decision with written documentation, evidence, or argument, which shall be submitted within 20 days of receipt of the request. The council shall provide copies of all documents to the requester at the time the items are submitted to the director.

The director shall issue a decision granting or denying the Request for Reconsideration within 30 days of the receipt of the evidence, or no later than 60 days from the date of Request for Reconsideration, unless a later date is agreeable to the requester and the council.

281—67.21(279) Refusal to issue decision on request. The director may refuse to issue a decision on a Request for Reconsideration upon good cause. Good cause includes, but is not limited to, the following reasons:

1. The request was untimely;
2. The requester lacks standing to seek reconsideration;
3. The request is not based on any of the available grounds in rule 281—67.18(279), or is merely frivolous or vexatious;
4. The requester failed to provide documentation, evidence or argument in support of its request;
5. The request is moot due to negotiation and settlement of the issue(s).

281—67.22(279) Granting a Request for Reconsideration. If the director grants a Request for Reconsideration, the council shall consider the grantee's application in accordance with the director's findings and decision.

These rules are intended to implement Iowa Code section 279.51.

[Filed emergency 2/16/90—published 3/7/90, effective 2/16/90]

[Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 6/6/90]

[Filed emergency 3/15/91—published 4/3/91, effective 3/15/91]

[Filed 12/19/91, Notice 10/30/91—published 1/8/92, effective 2/12/92]
[Filed ARC 1487C (Notice ARC 1396C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 97
SUPPLEMENTARY WEIGHTING

281—97.1(257) Definitions. For the purpose of this chapter, the following definitions apply.

“Actual enrollment” shall mean the enrollment determined annually on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, pursuant to Iowa Code section 257.6.

“Career academy” shall mean a program of study as defined in 281—Chapter 47. A course offered by a career academy shall not qualify as a regional academy course. A career academy course may qualify as a concurrent enrollment course if it meets the requirements of Iowa Code section 261E.8.

“Class” shall mean a course for academic credit which applies toward a high school or community college diploma.

“Enrolled” shall mean that a student has registered with the school district and is taking part in the educational program.

“Fraction of a school year at the elementary level” shall mean the product of the minutes per day of class times the number of days per year the class meets divided by the product of the total number of minutes in a school day times the total number of days in a school year.

“Fraction of a school year at the secondary level” shall mean the product of the minutes per day of class times the number of days per year the class meets divided by the product of the total number of class periods in a school day times the total number of days in a school year. All minutes available in a normal day shall be used in the calculation.

“ICN” shall mean the Iowa Communications Network.

“Political subdivision” shall mean a political subdivision in the state of Iowa and shall include a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (Iowa School for the Deaf, Iowa State University, University of Iowa, and University of Northern Iowa).

“Project lead the way” means the nonprofit organization with 501(c)(3) tax-exempt status that provides rigorous and innovative science, technology, engineering, and mathematics education curriculum founded in fundamental problem-solving and critical-thinking skills while integrating national academic and technical learning standards.

“Regional academy” shall mean an educational program established by a school district to which multiple school districts send students in grades 7 through 12. The curriculum shall include advanced-level courses and, in addition, may include career-technical courses, Internet-based courses, and coursework delivered via the ICN. Regional academy courses shall not qualify as concurrent enrollment courses and do not generate any postsecondary credit. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11, subsection 2.

“Superintendent” shall be defined pursuant to Iowa Code section 272.1.

“Supplant” shall mean the community college’s offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or the community college’s offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

“Supplementary weighting plan” shall mean a plan as defined in this chapter to add a weighting for each resident student eligible who is enrolled in an eligible class taught by a teacher employed by another school district or taught by a teacher employed jointly with another school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class shall be calculated by multiplying the fraction of a school year that class represents by the number of eligible resident students enrolled in that class and then multiplying that figure by the weighting factor established in Iowa Code chapter 257.

“Supplementary weighting plan for at-risk students” shall mean a plan as defined in this chapter to add a weighting for each resident student enrolled in the district and a weighting for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey

for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785, to generate funding to be used to develop or maintain at-risk programs, which may include alternative school programs.

“Teacher” shall be defined pursuant to Iowa Code section 272.1.

[ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 0014C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter); ARC 0520C, IAB 12/12/12, effective 1/16/13; ARC 1486C, IAB 6/11/14, effective 5/15/14]

281—97.2(257) Supplementary weighting plan.

97.2(1) Eligibility. Except if listed under subrule 97.2(7), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

- a. Resident student attends class in another school district pursuant to subrule 97.2(2), or
- b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or
- c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or
- d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5), or
- e. Resident student attends class in a community college for college credit pursuant to subrule 97.2(6).

Other than as listed in paragraphs 97.2(1)“a” to “e” above and in rules 281—97.3(257), 281—97.4(257), and 281—97.7(257), no other sharing arrangement shall be eligible for supplementary weighting.

97.2(2) Attend class in another school district. Students attending class in another school district will be eligible for supplementary weighting under paragraph 97.2(1)“a” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(3) Attend class taught by a teacher employed by another school district. Students attending class taught by a teacher employed by another school district will be eligible for supplementary weighting under paragraph 97.2(1)“b” only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(4) Attend class taught by a teacher jointly employed with another school district. All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1)“c.” The school districts jointly employing the teacher must have:

- a. A joint teacher evaluation process and instruments.
- b. A joint teacher professional development plan.
- c. One single salary schedule.

Except for joint employment contracts which meet the requirements of paragraphs “a” to “c” above, no two or more school districts shall list each other for the same classes and grade levels.

97.2(5) Attend class in a community college. All of the following conditions must be met for any student attending a community college-offered class to be eligible for supplementary weighting under paragraph 97.2(1)“d.”

- a. The course must supplement, not supplant, high school courses.
 - (1) For purposes of these rules, to comply with the “supplement, not supplant” requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the school district.
 - (2) The course must not be used by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.
- b. The course must be included in the community college catalog or an amendment or addendum to the catalog.

c. The course must be open to all registered community college students not just high school students.

d. The course must be for college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

e. The course must be taught by an instructor employed by or under contract with the community college who meets the requirements of Iowa Code section 261E.3.

f. The course must be taught utilizing the community college course syllabus.

g. The course must be taught in such a manner as to result in student work and student assessment which meet college-level expectations.

h. The course must not have been determined as failing to meet the standards established by the postsecondary course audit committee.

97.2(6) *Attend a project lead the way class in a community college.* Students attending a science, technology, engineering, or mathematics class that uses an activities-based, project-based, and problem-based learning approach and that is offered collaboratively by the students' school district and a community college in partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are eligible for supplementary weighting under paragraph 97.2(1) "e" if the curriculum provider is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

97.2(7) *Ineligibility.* The following students are ineligible for supplementary weighting:

a. Nonresident students attending the school district under any arrangement except open enrolled in students, nonpublic shared-time students, or dual enrolled competent private instruction students in grades 9 through 12.

b. Students eligible for the special education weighting plan provided in Iowa Code section 256B.9 when being served by special education programs or services that carry additional weighting.

c. Students in whole-grade sharing arrangements except under sharing pursuant to subrule 97.2(5) or subrule 97.2(7).

d. Students open enrolled out except under sharing pursuant to subrule 97.2(5) or subrule 97.6(1), paragraph "c."

e. Students open enrolled in, except under sharing pursuant to subrule 97.2(5) or subrule 97.6(1), paragraph "c," when the students are under competent private instruction and are dual enrolled in grades 9 through 12.

f. Students participating in shared services rather than shared classes except under sharing pursuant to rule 281—97.7(257).

g. Students taking postsecondary enrollment options (PSEO) courses.

h. Students enrolled in courses or programs offered by their resident school districts unless those courses meet the conditions for attending classes in a community college under subrule 97.2(5) or if the teacher is employed by another school district pursuant to subrule 97.2(3) or if a teacher is jointly employed with another school district pursuant to subrule 97.2(4) or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

i. Students enrolled in courses or programs taught by teachers employed by their resident school districts unless the employment meets the criteria of joint employment with another school district under subrule 97.2(4) or if the criteria in subrule 97.2(5) are met for students attending class in a community college or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

j. Students enrolled in an at-risk program or alternative school program when being served by such program.

k. Students enrolled in summer school courses.

97.2(8) *Whole-grade sharing.* If all or a substantial portion of the students in any grade are shared with another one or more school districts for all or a substantial portion of a school day, then no

students in that grade level are eligible for supplementary weighting except as authorized by rule 281—97.5(257). No students in the grade levels who meet the criterion in this subrule are eligible for supplementary weighting even in the absence of an agreement executed pursuant to Iowa Code sections 282.10 through 282.12. A district that discontinues grades pursuant to Iowa Code section 282.7 is deemed to be whole-grade sharing the resident students in those discontinued grades for purposes of these rules.

a. In a one-way whole-grade sharing arrangement, the receiving district may count its resident students in the grade levels that are whole-grade shared if the resident students are shared pursuant to subrule 97.2(2), 97.2(3), or 97.2(5).

b. In a one-way whole-grade sharing arrangement, the receiving district may not count its resident students in the grade levels that are whole-grade shared pursuant to subrule 97.2(3) if the teacher is employed by the same district that is sending students under the whole-grade sharing arrangement.

97.2(9) *Due date.* Supplementary weighting shall be included with the certified enrollment which is due October 15 following the October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, on which the enrollment was taken.

[ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 9266B, IAB 12/15/10, effective 1/19/11; ARC 0520C, IAB 12/12/12, effective 1/16/13]

281—97.3(257) Supplementary weighting plan for at-risk students.

97.3(1) *Uses of funds.* Funding generated by the supplementary weighting plan for at-risk students shall be used to develop or maintain at-risk programs, which may include alternative school programs.

97.3(2) *Calculation of funding.* Funding for the supplementary weighting plan for at-risk students is calculated as follows:

a. Adding a weighting for each resident student of one hundred fifty-six one-hundred-thousandths, and

b. Adding a weighting of forty-eight ten-thousandths for each resident student enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785.

97.3(3) *Guarantee.* Rescinded IAB 8/21/02, effective 9/25/02.

97.3(4) *Recalculation of funding.* Rescinded IAB 8/21/02, effective 9/25/02.

97.3(5) *School-based youth services.* Rescinded IAB 8/21/02, effective 9/25/02.

281—97.4(257) Supplementary weighting plan for a regional academy.

97.4(1) *Eligibility.* Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if all of the following criteria are met:

a. Two or more Iowa school districts, other than a whole-grade sharing partner district, send students to advanced-level courses that are included in the curriculum of the regional academy, and these students are eligible for supplementary weighting under subrule 97.2(1), paragraph “a” or “c.” In addition, for the host district to qualify for the minimum weighting pursuant to subrule 97.4(4), one or more Iowa school districts, other than a whole-grade sharing partner district, must send students to career-technical classes that are included in the curriculum of the regional academy.

b. The regional academy is located in the district.

c. The grade levels include one or more grades seven through twelve.

d. The curriculum is an organized course of study, adopted by the board, that includes a minimum of two advanced-level courses that are not part of a career-technical program. An advanced-level course is a course that is above the level of the course units required as minimum curriculum in 281—Chapter 12 in the host district.

e. The resident students are not eligible for supplementary weighting under another supplementary weighting plan.

f. No resident or nonresident students are attending the regional academy under a whole-grade sharing arrangement as defined in subrule 97.2(7).

g. Two or more sending districts that are whole-grade sharing partner districts shall be treated as one sending district for purposes of subrule 97.4(1), paragraph “a.”

h. The school districts participating in a regional academy shall enter into an agreement on how the funding generated by the supplementary weighting received shall be used and shall submit the agreement, as well as a copy of the minutes of meetings of the local school district boards of directors in which the boards approved the agreement, to the department for approval by October 1 of the year in which the districts intend to request supplementary weighting for the regional academy.

97.4(2) *Weighting.* Resident students eligible for supplementary weighting pursuant to subrule 97.4(1) shall be eligible for a weighting of one-tenth of the fraction of a school year during which the pupil attends courses at the regional academy in which nonresident students are enrolled pursuant to subrule 97.4(1), paragraph “a.”

97.4(3) *Maximum weighting.* The maximum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to 30 full-time-equivalent pupils.

97.4(4) *Minimum weighting.* The minimum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to 15 full-time-equivalent pupils if the academy provides both advanced-level courses and career-technical courses.

97.4(5) *Additional programs.* If all of the criteria in subrule 97.4(1) are met, the regional academy may also include in its curriculum career-technical courses, Internet-based courses and ICN courses.

97.4(6) *Career academy.* A career academy is not a regional academy for purposes of these rules. [ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 0014C, IAB 2/22/12, effective 3/28/12 (See Delay note at end of chapter)]

281—97.5(257) Supplementary weighting plan for whole-grade sharing.

97.5(1) *Whole-grade sharing.* A school district which participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and which has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, 2019, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to subrule 97.2(1), paragraph “a,” “b,” or “c.” A school district participating in a whole-grade sharing arrangement shall be eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, 2019.

97.5(2) *Contiguous districts.* School districts that adopt a board resolution jointly with all other affected boards to study reorganization must be contiguous school districts. If two or more of the affected districts are not contiguous to each other, all districts separating those districts must be a party to the whole-grade sharing arrangement and the board resolution adopted jointly to study reorganization.

97.5(3) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2018.

97.5(4) *Change in sharing districts.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) may enter into a whole-grade sharing arrangement with one or more different districts for its second or third year of eligible weighting by adopting and filing a new joint board resolution pursuant to this subrule. Establishing a new whole-grade sharing arrangement does not extend the maximum number of years for which a school district is eligible.

97.5(5) *Filing board resolutions.* Each school district that adopts a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization

shall file a copy of the board resolution with the department of education not later than October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

97.5(6) Filing progress reports. Each school district that assigned a supplementary weighting to resident students attending class in a whole-grade sharing arrangement and that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in the following year shall file a report of progress toward reorganization with the school budget review committee, on forms developed by the department of education, no later than August 1 preceding October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

a. The progress report shall include, but not be limited to, the following information:

- (1) Names of districts with which the district is studying reorganization.
- (2) Descriptive information on the whole-grade sharing arrangement.
- (3) If the district is studying dissolution, information on whether public hearings have been held, a proposal has been adopted, and an election date has been set.
- (4) If the district is studying reorganization, information on whether public hearings have been held, a plan has been approved by the AEA, and an election date has been set.
- (5) Description of joint activities of the boards such as planning retreats and community meetings.
- (6) Information showing an increase in sharing activities with the whole-grade sharing partners such as curriculum offerings, program administration, personnel, and facilities.

b. The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, 2019. Indicators of progress may include, but are not limited to:

- (1) Establishing substantially similar salary schedules or a plan by which the sharing districts will be able to develop a single salary schedule upon reorganization.
- (2) Establishing a joint teacher evaluation process and instruments.
- (3) Developing a substantially similar continuous school improvement plan (CSIP) with aligned goals including a district professional development plan.
- (4) Increasing the number of grades involved in the whole-grade sharing arrangement.
- (5) Increasing the number of shared teaching or educator positions.
- (6) Increasing the number or extent of operational sharing arrangements.
- (7) Increasing the number of shared programs such as career, at risk, gifted and talented, curricular, or cocurricular.
- (8) Increasing the number of joint board meetings or planning retreats.
- (9) Holding regular or frequent public meetings to inform the public of progress toward reorganization and to receive comments from the public regarding the proposed reorganization.
- (10) Adopting a reorganization or dissolution proposal.
- (11) Setting proposed boundaries.
- (12) Setting a date for an election on the reorganization or dissolution proposal.

c. The school budget review committee shall consider each progress report at its first regular meeting of the fiscal year and shall accept the progress report or shall reject the progress report with comments. The reports will be evaluated on demonstrated progress within the past year toward reorganization or dissolution.

d. A school district whose progress report is not accepted shall be allowed to submit a revised progress report at the second regular meeting of the school budget review committee. The committee shall accept or reject the revised progress report.

e. If the school budget review committee rejects the progress report and the district does not submit a revised progress report or if the school budget review committee rejects the revised progress report, the school district shall not be eligible for supplementary weighting for whole-grade sharing.

[ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 1486C, IAB 6/11/14, effective 5/15/14]

281—97.6(257) Supplementary weighting plan for ICN video services.

97.6(1) Eligibility. Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment, is not eligible for supplementary weighting for the same course under another supplementary

weighting plan, and meets any of the criteria in “a,” “b,” or “c” below. For purposes of this subrule, the portion of a course offered via ICN video services shall be considered separately from the portion of the course not offered via ICN video services. Eligible students include:

a. Resident students who receive a virtual class provided by another school district via ICN video services.

b. Resident students who attend a virtual class that the resident district is providing to students in one or more other school districts via ICN video services.

c. Resident students who receive a virtual community college class via ICN video services. The community college class must be a course eligible for supplementary weighting under the criteria listed in subrule 97.2(5).

97.6(2) Weighting. Resident students eligible for supplementary weighting pursuant to subrule 97.6(1) shall be eligible for a weighting of one-twentieth of the fraction of the school year during which the pupil attends the virtual class.

97.6(3) Payment to teachers. A school district that includes students in a virtual class for supplementary weighting shall reserve 50 percent of the supplementary weighting funding the district will receive as a result of including the resident students in the virtual class for supplementary weighting as additional pay for the virtual class teacher.

a. The employer of the virtual class teacher will make the payment.

b. The additional pay includes salary and the employer’s share of FICA and IPERS.

c. The employer shall pay the virtual class teacher during the same school year in which the virtual class is provided.

d. The employer may pay the virtual class teacher at the conclusion of the virtual class or may pay the teacher periodic payments that represent the portion of the virtual class that has been provided. The employer may not pay the teacher prior to services being rendered.

e. The additional pay shall be calculated as 0.5 multiplied by the supplementary weighting for the virtual class multiplied by the district cost per pupil in the subsequent budget year.

f. If the teacher’s contract includes additional pay for teaching the virtual class, the teacher shall receive the higher amount of the additional pay in the contract or the amount of the additional pay calculated pursuant to paragraphs “b” and “e” above. For purposes of this comparison, the employer shall compare the salary portions only.

g. The contract between the agencies shall provide for the additional pay for the teacher of the virtual class. That 50 percent of the supplementary weighting funding would be paid in addition to the tuition sent to the providing district or community college to be paid as additional pay to its teacher employee.

281—97.7(257) Supplementary weighting plan for operational services.

97.7(1) Eligibility. Supplementary weighting is available if all of the following criteria are met:

a. The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.

b. The district shares an operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.

c. Personnel shared as part of an operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.

d. If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.

e. If the district shares more than one individual in the same operational function, that operational function shall be listed only once for the purposes of supplementary weighting.

f. No individual personnel shall be included for operational function sharing more than once for supplementary weighting in the same fiscal year.

g. If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department of education, only the sharing arrangement implemented first will be eligible for supplementary weighting.

h. The operational function areas shared include one or more of the areas listed in subrule 97.7(2).

97.7(2) Operational function area eligibility. “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director or school counselor. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. *Superintendent management.*

(1) Shared personnel must perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions. An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) If the services of a superintendent are shared in any of the five eligible years, the district may not also share an assistant superintendent in any year for purposes of supplementary weighting.

(3) Clerical or other support services personnel in the superintendent function area or executive administrator function area shall not be considered shared superintendent management under this subrule.

(4) Shared superintendent services or executive administrator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

b. *Business management.*

(1) Shared personnel must perform the services of managing the business operations. Managing business operations would include personnel performing the duties of a business manager or school business official, or personnel performing the duties listed in the Iowa Code for a board secretary including, but not limited to, board secretary duties listed in Iowa Code chapter 291, or personnel performing the duties listed in the Iowa Code for a board treasurer including, but not limited to, board treasurer duties listed in Iowa Code chapter 291.

(2) Services of clerical personnel, school administration managers, superintendents, principals, teachers, board officers except those listed in subparagraph (1), or any other nonbusiness administration personnel shall not be considered shared business management under this subrule.

(3) Shared business management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

c. *Human resources management.*

(1) Shared personnel must perform the services of managing human resources.

(2) Services of clerical personnel, superintendents, principals, school administration managers, school business officials, business managers, curriculum directors, teachers, or board officers shall not be considered shared human resources management under this subrule.

(3) Shared human resources management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

d. *Student transportation management.*

(1) Shared personnel shall include transportation directors or supervisors. Shared personnel must perform services related to transportation.

(2) Services of school business officials, business managers, school administration managers, clerical or paraprofessional personnel, school bus mechanics, and school bus drivers shall not be considered shared student transportation management under this subrule.

(3) Shared transportation management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

e. *Facility operations and maintenance.*

(1) Shared personnel shall include facility managers and supervisors of buildings or grounds. Shared personnel must perform services related to facility operations and maintenance.

(2) Services of school business officials, business managers, school administration managers, clerical personnel or custodians shall not be considered shared facility operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

f. Curriculum director.

(1) Shared personnel must perform the services of a curriculum director. An individual performing the function of a curriculum director must be properly licensed for that position.

(2) Technology directors and clerical, paraprofessional, or other support services personnel in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.

(3) Shared curriculum director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. School counselor.

(1) Shared personnel must perform the services of a school counselor. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students, social workers, or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.

(3) Shared school counselor services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.7(3) Years of eligibility. A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2013.

a. Receipt of supplementary weighting shall be conditioned upon the submission of information provided in the format prescribed by the department of education as part of the BEDS fall data collection.

b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection.

97.7(4) Contiguous districts. School districts that share operational functions with other school districts are not required to be contiguous school districts. If the districts are not contiguous, the district(s) separating those districts is not required to be a party to the operational sharing arrangement.

97.7(5) Consecutive years. A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2018, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

97.7(6) Change in sharing partners. A school district that is eligible to add a supplementary weighting for resident students for a shared operational function may enter into an operational function sharing arrangement with one or more different sharing partners for its second, third, fourth or fifth year of eligible weighting. Establishing a new operational function sharing arrangement in a substantially similar function does not extend the maximum number of years for which a school district is eligible.

97.7(7) Change in shared personnel. A school district that is eligible to add a supplementary weighting for resident students for a shared operational function may enter into an operational function arrangement for a different individual in a substantially similar position. Implementing a change of the individual or individuals shared does not extend the maximum number of years for which a school district is eligible.

97.7(8) *Multiple shared operational functions.* A school district that implements more than one sharing arrangement within any discrete operational function area shall be eligible for supplementary weighting for only one sharing arrangement in that discrete operational function.

97.7(9) *Multiple shared individuals in an operational function.* A school district that implements more than one sharing arrangement within any discrete operational function area shall not be eligible for supplementary weighting if more than one shared individual is licensed and qualified for the same position. If the school district had utilized its own employees, the sharing arrangement or arrangements would not have been necessary.

97.7(10) *Weighting.* A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be assigned a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director or a school counselor shall be assigned a supplementary weighting of three pupils for the function. The supplementary weighting shall be assigned to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement or qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

97.7(11) *Sharing arrangement duties.* A school district may receive the additional weighting for the sharing of services of an individual with a political subdivision even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting. In such case, the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual.

97.7(12) *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible in a budget year is an amount corresponding to 21 full-time equivalent pupils. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function. Each eligible discrete operational function sharing arrangement shall be included in the total of all operational function sharing. If the district's total of all discrete operational function sharing exceeds 21 full-time equivalent pupils, the department shall make a reduction in the total rather than separately adjusting the discrete operational function sharing that made up the total.

97.7(13) *Uses of funding.* Additional funds provided through supplementary weighting for operational function sharing shall be used to increase student opportunities.

97.7(14) *Area education agency maximum funding.* The provisions of rule 281—97.7(257) also apply to an area education agency except for pupil counts for operational function sharing and maximum weightings.

a. An area education agency shall be eligible for a minimum amount of additional funding of \$30,000 in a budget year for the total of all operational function sharing arrangements.

b. An area education agency shall be eligible for a maximum amount of additional funding of \$200,000 in a budget year for the total of all operational function sharing arrangements.

c. The department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level.

[ARC 8188B, IAB 10/7/09, effective 11/11/09; ARC 1119C, IAB 10/16/13, effective 11/20/13; see Delay note at end of chapter; ARC 1486C, IAB 6/11/14, effective 5/15/14]

These rules are intended to implement Iowa Code sections 257.6, 257.11 as amended by 2014 Iowa Acts, Senate File 2056 and House File 2271, and 257.12 and Iowa Code chapter 261E.

[Filed emergency 8/13/99—published 9/8/99, effective 8/13/99]

[Filed 10/21/99, Notice 9/8/99—published 11/17/99, effective 12/22/99]

[Filed 10/20/00, Notice 8/23/00—published 11/15/00, effective 12/20/00]

[Filed 8/2/02, Notice 5/29/02—published 8/21/02, effective 9/25/02]

[Filed 11/19/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]

[Filed ARC 8188B (Notice ARC 7611B, IAB 3/11/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 9266B (Notice ARC 9016B, IAB 8/25/10), IAB 12/15/10, effective 1/19/11]

[Filed ARC 0014C (Notice ARC 9908B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12]¹

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 0520C (Notice ARC 0385C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 1119C (Notice ARC 0967C, IAB 8/21/13), IAB 10/16/13, effective 11/20/13]²

[Filed Emergency ARC 1486C, IAB 6/11/14, effective 5/15/14]

¹ March 28, 2012, effective date of 97.1, “regional academy,” and 97.4(1) “c,” “h” delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

² November 20, 2013, effective date of ARC 1119C [97.7] delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held November 8, 2013.

CHAPTER 2
COMMISSION PROCEDURE FOR RULE MAKING
[Prior to 8/10/88, see College Aid Commission, 245—13.1 and 13.2]

283—2.1(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the commission are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

283—2.2(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the commission may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1)“a,” solicit comments from the public on a subject matter of possible rule making by the commission by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment.

283—2.3(17A) Public rule-making docket.

2.3(1) Docket maintained. The commission shall maintain a current public rule-making docket.

2.3(2) Anticipated rule making. The rule-making docket shall list each anticipated rule-making proceeding. A rule-making proceeding is deemed “anticipated” from the time a draft of proposed rules is distributed for internal discussion within the commission. For each anticipated rule-making proceeding the docket shall contain a listing of the precise subject matter which may be submitted for consideration by the executive director for subsequent proposal under the provisions of Iowa Code section 17A.4(1)“a,” the name and address of commission personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the commission of that possible rule. The commission also may include in the docket other subjects upon which public comment is desired.

2.3(3) 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 rule becoming effective. 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 commission determinations with respect thereto;
- h. Any known timetable for commission decisions or other action in the proceeding;
- i. The date of the rule’s adoption;
- j. The date 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.

283—2.4(17A) Notice of proposed rule making.

2.4(1) Contents. At least 35 days before the adoption of a rule the commission shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- a. A brief explanation of the purpose of the proposed rule;

- b. The specific legal authority for the proposed rule;
- c. Except to the extent impracticable, the text of the proposed rule;
- d. Where, when, and how views may be presented on the proposed rule; and
- e. Where, when, and how an oral proceeding may be demanded on the proposed rule if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the commission 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 the omitted text of the proposed rule, and the range of possible choices being considered by the commission for the resolution of each of those issues.

2.4(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 2.12(2) of this chapter.

2.4(3) *Copies of notices.* Persons desiring to receive copies of all future Notices of Intended Action must file with the commission a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the commission shall mail or electronically transmit a copy of that notice to those persons who have filed a written request for either mailing or electronic transmittal with the commission for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year. Interested persons may also subscribe to the service provided at <https://www.legis.iowa.gov/Subscribe/agencyChanges.aspx> to receive rule-making information regarding the commission.

[ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—2.5(17A) Public participation.

2.5(1) *Written comments.* For at least 20 days after publication of Notice of Intended Action, arguments, data, and views may be submitted in writing on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to Executive Director, College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920, or to the person designated in the Notice of Intended Action.

2.5(2) *Oral proceedings.* The commission may, at any time, schedule an oral proceeding on a proposed rule. The commission shall schedule an oral proceeding on a proposed rule 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 commission 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 contain the following additional information:

a. A request by one or more individual persons must be signed by each individual and must include the address and telephone number of each individual.

b. A request by an association must be signed by an officer or designee of the association, must contain a statement that the association has at least 25 members, and must include the address and telephone number of the person signing the 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 the request.

2.5(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” as amended by 1998 Iowa Acts, chapter 1202, section 8, or this chapter.

b. *Scheduling and notice.* An oral proceeding on a proposed rule may be held in one or more locations 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 identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. Presiding officer. The commission, a member of the commission, or another person designated by the commission who will be familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule. If the commission does not preside, the presiding officer shall prepare a memorandum for consideration by the commission summarizing the contents of the presentations made at the oral proceeding unless the commission determines that such a memorandum is unnecessary because the commission will personally listen to or read the entire transcript of the oral proceeding.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, oral statements and documentary and physical submissions may be made including data, views, comments, or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the commission at least one business day prior to the proceeding and indicate the general subject of the presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they 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 stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the commission decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the 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 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 the meeting.

(5) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the commission.

(6) The 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.

2.5(4) Additional information. In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the commission may obtain information concerning a proposed rule through any other lawful means deemed appropriate.

2.5(5) Accessibility. The commission shall schedule oral proceedings in rooms accessible to, and functional for, persons with physical disabilities. Persons who have special requirements should contact the administrative secretary at College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920, or (515)242-3341 in advance to arrange access or other needed services. [ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—2.6(17A) Regulatory analysis.

2.6(1) Definition of small business. A small business is defined in Iowa Code section 17A.4A(7).

2.6(2) Mailing list. Small businesses or organizations of small businesses may be registered on the commission's small business impact list by making a written application addressed to College Student

Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. The application for registration shall state:

- a. The name of the small business or organization of small businesses;
- 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.
- 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 commission 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 commission may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wants 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.

2.6(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 commission 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.4(2), the commission 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.

2.6(4) *Qualified requesters for regulatory analysis—economic impact.* The commission shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2a) after a proper request from:

- a. The administrative rules coordinator;
- b. The administrative rules review committee.

2.6(5) *Qualified requesters for regulatory analysis—business impact.* The commission shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2b) 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 names, addresses and telephone numbers of not less than 25 small businesses it represents.

2.6(6) *Time period for analysis.* Upon receipt of a timely request for a regulatory analysis the commission shall adhere to the time lines described in Iowa Code section 17A.4A(4).

2.6(7) *Contents of request.* A request for a regulatory analysis is made when it is mailed or delivered to the commission. The request shall be in writing and satisfy the requirements of Iowa Code section 17A.4A(1).

2.6(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of Iowa Code section 17A.4A(4,5).

2.6(9) *Publication of a concise summary.* The commission shall make available, to the maximum extent feasible, copies of the published summary in conformance with Iowa Code section 17A.4A(5).

2.6(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(2a), unless a written request expressly waives one or more of the items listed in the section.

2.6(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 representatives of 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(2b).
[ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—2.7(17A,25B) Fiscal impact statement.

2.7(1) A proposed rule that mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

2.7(2) If the commission determines, at the time it adopts a rule, that the fiscal impact statement upon which the rule is based contains errors, the commission shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

283—2.8(17A) Time and manner of rule adoption.

2.8(1) *Time of adoption.* The commission 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 commission 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.

2.8(2) *Consideration of public comment.* Before the adoption of a rule, the commission 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.

2.8(3) *Reliance on commission expertise.* Except as otherwise provided by law, the commission may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

283—2.9(17A) Variance between adopted rule and published notice of proposed rule adoption.

2.9(1) The commission shall not adopt a rule that differs from the rule proposed in the 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.

2.9(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the commission shall consider the following factors:

- a.* The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;
- b.* The extent to which the subject matter of the rule or the issues determined by the 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 rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

2.9(3) The commission shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action on which the rule is based, unless the commission finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rule-making proceeding 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.

2.9(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the commission to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

283—2.10(17A) Exemptions from public rule-making procedures.

2.10(1) *Omission of notice and comment.* To the extent the commission finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the commission may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The commission shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

2.10(2) *Public proceedings on rules adopted without them.* The commission may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 2.10(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 commission shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 2.10(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. The 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 commission may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 2.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

283—2.11(17A) Concise statement of reasons.

2.11(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 commission shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. 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.

2.11(2) *Contents.* The concise statement of reasons shall contain:

- a. The reasons for adopting the 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;
- c. The principal reasons urged in the rule-making proceeding for and against the rule, and the commission's reasons for overruling the arguments made against the rule.

2.11(3) *Time of issuance.* After a proper request, the commission 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.

[ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—2.12(17A) Contents, style, and form of rule.

2.12(1) *Contents.* Each rule adopted by the commission shall contain the text of the rule and, in addition:

- a. The date the commission 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.4(1b), or the commission 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. 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 waiver or special exceptions provided in the rule if such reasons are required by Iowa Code section 17A.4(1b), or the commission in its discretion decides to include such reasons; and
- g. The effective date of the rule.

2.12(2) *Incorporation by reference.* The commission may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the commission finds that the incorporation of its text in the commission proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the commission proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The commission may incorporate such matter by reference in a proposed or adopted rule only if the commission makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from the commission, and how and where copies may be obtained from the agency of the United States, this state, another state, or the organization, association, or persons, originally issuing that matter. The commission shall retain permanently a copy of any materials incorporated by reference in a rule of the commission.

If the commission adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically.

2.12(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 unduly cumbersome, expensive, or otherwise inexpedient, the commission 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 also shall 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 commission. The commission will provide a copy of that full text at actual cost upon request and shall make copies of the full text available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the commission shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

2.12(4) *Style and form.* In preparing its rules, the commission shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

283—2.13(17A) Agency rule-making record.

2.13(1) *Requirement.* The commission shall maintain an official rule-making record for each rule it proposes by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

2.13(2) *Contents.* The commission rule-making record shall contain:

- a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of commission submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based;

b. Copies of any portions of the commission's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;

c. All written petitions, requests, and submissions received by the commission, 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 commission and considered by the executive director, in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, except to the extent the commission 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 commission shall identify in the record the particular materials deleted and state the reasons for that deletion;

d. Any official transcript of oral presentations made in the proceeding upon which the rule is based 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;

e. A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based;

f. A copy of the rule and any concise statement of reasons prepared for that rule;

g. All petitions for amendments or repeal or suspension of the rule;

h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;

i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any commission response to that objection;

j. A copy of any significant written criticism of the rule, including a separate file of any petitions for waiver of the rule; and

k. A copy of any executive order concerning the rule.

2.13(3) *Effect of record.* Except as otherwise required by a provision of law, the commission rule-making record required by this rule need not constitute the exclusive basis for commission action on that rule.

2.13(4) *Maintenance of files.* The commission shall maintain the rule-making file for a period of not less than five years from the later of the date the rule to which it pertains became effective, the date of the Notice of Intended Action, or the date of any written criticism as described in 2.13(2) "g," "h," "i," or "j."

283—2.14(17A) Filing of rules. The commission 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 was 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 commission shall use the standard form prescribed by the administrative rules coordinator.

283—2.15(17A) Effectiveness of rules prior to publication.

2.15(1) *Grounds.* The commission 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 commission shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

2.15(2) *Special notice.* When the commission 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 commission

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 commission to employ the most effective and prompt means of notice rationally 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 commission 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 subrule 2.15(2).

283—2.16(17A) General statements of policy.

2.16(1) *Compilation, indexing, public inspection.* The commission 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," "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.

2.16(2) *Enforcement of requirements.* A general statement of policy subject to the requirements of this subsection shall not be relied on by the commission to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 2.16(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

283—2.17(17A) Review by commission of rules.

2.17(1) Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the commission to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the commission shall conduct a formal review of a specified rule to determine whether a new rule should be adopted instead or the rule should be amended or repealed. The commission 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.

2.17(2) In conducting the formal review, the commission 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 commission'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 commission or granted by the commission. 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 commission'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.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 3/9/82, Notice 1/20/82—published 3/31/82, effective 5/5/82]

[Filed 4/16/87, Notice 2/11/87—published 5/6/87, effective 6/10/87]

[Filed 7/22/88, Notice 3/9/88—published 8/10/88, effective 9/14/88]

[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]

[Filed 9/24/03, Notice 6/11/03—published 10/15/03, effective 11/19/03]
[Filed ARC 1490C (Notice ARC 1346C, IAB 2/19/14), IAB 6/11/14, effective 7/30/14]

CHAPTER 3
DECLARATORY ORDERS

[Prior to 8/10/88, see College Aid Commission, 245—13.4 and 13.5]

283—3.1(17A) Petition for declaratory order. Any person may file a petition with the college student aid commission for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the commission, at 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. A petition is deemed filed when it is received by the commission. The commission 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:

COLLEGE STUDENT AID COMMISSION	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	} PETITION FOR DECLARATORY ORDER

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 provided for by 3.7(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 1490C, IAB 6/11/14, effective 7/30/14]

283—3.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the college student aid commission shall give notice of the petition to all persons not served by the petitioner pursuant to 3.6(17A) to whom notice is required by any provision of law. The commission may also give notice to any other persons.

283—3.3(17A) Intervention.

3.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 15 days of the filing of a petition for declaratory order (after time for notice under 3.2(17A) and before 30-day time for agency action under 3.8(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

3.3(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 commission.

3.3(3) A petition for intervention shall be filed at 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. Such a petition is deemed filed when it is received by the commission. The commission 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:

COLLEGE STUDENT AID COMMISSION	
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited 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 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 1490C, IAB 6/11/14, effective 7/30/14]

283—3.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The commission may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

283—3.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to Executive Director, College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920.

[ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—3.6(17A) Service and filing of petitions and other papers.

3.6(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.

3.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the commission.

3.6(3) Method of service, time of filing, and proof of mailing. Method of service, time of filing, and proof of mailing shall be as provided by uniform rule on contested cases 3.12(17A).

[ARC 1490C, IAB 6/11/14, effective 7/30/14]

283—3.7(17A) Consideration. Upon request by petitioner, the college student aid commission must schedule a brief and informal meeting between the original petitioner, all intervenors, and the commission, a member of the commission, or a member of the staff of the commission, to discuss

the questions raised. The commission may solicit comments from any person on the questions raised. Comments on the questions raised may be submitted to the commission by any person.

283—3.8(17A) Action on petition.

3.8(1) Within the time allowed by Iowa Code section 17A.9(5) after receipt of a petition for a declaratory order, the executive director or designee shall take action on the petition as required by Iowa Code section 17A.9(5).

3.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in contested case uniform rule 283—4.2(17A).

283—3.9(17A) Refusal to issue order.

3.9(1) The commission shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the commission to issue an order.
3. The commission does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other commission or judicial proceeding, that may definitively resolve them.
5. 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.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. 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 a commission decision already made.
9. 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.
10. The petitioner requests the commission to determine whether a statute is unconstitutional on its face.

3.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final commission action on the petition.

3.9(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.

283—3.10(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.

283—3.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

283—3.12(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 commission, 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 commission. The issuance of a declaratory order constitutes final commission action on the petition.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 3/9/82, Notice 1/20/82—published 3/31/82, effective 5/5/82]

[Filed 4/16/87, Notice 2/11/87—published 5/6/87, effective 6/10/87]

[Filed 7/22/88, Notice 3/9/88—published 8/10/88, effective 9/14/88]

[Filed 5/28/99, Notice 3/10/99—published 6/16/99, effective 7/21/99]

[Filed 9/24/03, Notice 6/11/03—published 10/15/03, effective 11/19/03]

[Filed ARC 1490C (Notice ARC 1346C, IAB 2/19/14), IAB 6/11/14, effective 7/30/14]

CHAPTER 27
IOWA GRANT PROGRAM

283—27.1(261) State-supported grants. The Iowa grant program is a state-supported and administered grant based on financial need for Iowa residents enrolled at approved institutions of postsecondary education in Iowa.

27.1(1) Definitions. As used in this chapter:

“Accredited higher education institution” means any public institution of higher learning or accredited private institution defined in Iowa Code section 261.9 that is located in Iowa and accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools (NCA).

“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 parent’s or student’s completed financial statement, and the student’s anticipated expenses while attending the accredited higher education institution. Any federal, state, institutional, or private aid, other than work-study, shall also be considered an available resource. Financial need shall be determined at least annually on the basis of a confidential financial statement filed on a form designated by the commission. The commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine expected family contribution. Relative need will be ranked based on the applicant’s expected family contribution (EFC) as determined by the U.S. Department of Education. The application form must be received by the needs analysis processor by the deadline date specified by the commission.

“Full-time resident student” means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least 12 semester hours or the equivalent. “Course of study” does not include correspondence courses.

“Located in Iowa” means a college or university that is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

“Part-time resident student” means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least three semester hours or the equivalent. “Course of study” does not include correspondence courses.

“Qualified student” means a resident student who has established financial need and who is making satisfactory progress toward graduation at an eligible Iowa institution.

“Tuition and mandatory fees” means those college costs paid annually by all students enrolled on a full-time basis, as reported annually to the commission by each participating institution.

27.1(2) Student eligibility. A recipient must be an Iowa resident enrolled for at least three semester hours or the equivalent in a program leading to a degree from an eligible Iowa institution. The criteria used by the state board of regents to determine residency for tuition purposes, 681—1.4(262), are adopted for this program.

27.1(3) Award limits and eligibility requirements.

a. A grant may be awarded to any qualified person who is accepted for admission or is enrolled for at least three semester hours, or the equivalent, in a program leading to a degree from an approved, accredited higher education institution and who demonstrates financial need.

b. The annual amount of the grant to a full-time student shall not exceed the amount specified by Iowa law or the amount of the student’s financial need, whichever is less.

c. The maximum amount of a grant to a part-time student shall be prorated by dividing the maximum annual grant amount by 24 semester hours or the equivalent and multiplying that amount by the number of hours the student is enrolled.

d. Grants shall be awarded on an annual basis and shall be credited by the institution against the student’s tuition, fees, and room and board charges at the beginning of each term in equal installments upon certification that the eligible student is enrolled.

e. If a credit balance remains after crediting the amount of the grant to the student's tuition, fees, and, if applicable, room and board charges, the institution may distribute the grant balance to the student who may use the proceeds for other bona fide education expenses such as books, equipment, and transportation.

f. If a student receiving a grant under the program discontinues attendance before the end of any academic period but after receiving payment of grant funds for the academic period, the entire amount of any refund due the student, up to the amount of any payments made by the state, shall be distributed as follows:

(1) If an initial institutional allocation was made and funds are available due to the refund, the institution may offer additional awards, but in no case may an institution exceed its annual allocation.

(2) If institutional allocations are not made, then any refunds must be returned to the commission.

27.1(4) *Extent of grant.* A qualified full-time student may receive grants for not more than eight semesters of undergraduate study or the equivalent. A qualified part-time resident student may receive grants for not more than 16 semesters of undergraduate study or the equivalent.

27.1(5) *Application process.*

a. Eligible students shall apply for this grant through the use of an approved financial aid form which uses the federally accepted method of needs analysis. For the purpose of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. Priority applicants, as described in Iowa Code section 261.93 as amended by 2012 Iowa Acts, House File 2465, section 26, must complete an additional application if required by the commission.

b. Institutions shall coordinate aid packages to ensure that this grant program supplements rather than supplants federal and institutional gift aid awards and shall report need figures to the commission.

c. The institution shall clearly identify the Iowa grant on the student's aid award notice.

27.1(6) *Full year of study.* For purposes of this program, the commission has defined full year of study as two semesters or the equivalent. Grant payments are prorated according to this definition.

27.1(7) *Priority for grants.*

a. Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses; and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

b. Priority will be given to a qualified student who is a resident of Iowa; who is under the age of 26, or the age of 30 if the student is a veteran who is eligible for benefits, or has exhausted the benefits, under the federal Post-9/11 Veterans Educational Assistance Act of 2009; who is not a convicted felon as defined in Iowa Code section 910.15; and who meets at least one of the following criteria and agrees to allow the commission to verify the criteria:

(1) Is the child of a peace officer, as defined in Iowa Code section 97A.1, who was killed in the line of duty as determined by the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system in accordance with Iowa Code section 97A.6, subsection 16.

(2) Is the child of a police officer or a fire fighter, as defined in Iowa Code section 411.1, who was killed in the line of duty as determined by the statewide fire and police retirement system in accordance with Iowa Code section 411.6, subsection 15.

(3) Is the child of a sheriff or deputy sheriff, as defined in Iowa Code section 97B.49C, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52, subsection 2.

(4) Is the child of a fire fighter or police officer included under Iowa Code section 97B.49B who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with Iowa Code section 97B.52, subsection 2.

c. Remaining funds will be allocated to the sectors according to the appropriations language.

d. If funds are insufficient to help all students with no means of contribution to their educational expenses, institutional aid administrators will select students to receive grants.

27.1(8) Award notification. A grant recipient is notified of the award by the educational institution to which application is made. Any award notification provided by an institution on probation with the accrediting agency must be made contingent upon the institution's maintaining affiliation with the accrediting agency. The institution is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The institution shall report changes of student eligibility to the commission.

27.1(9) Award transfers and adjustments.

a. Awards may be transferred among eligible institutions unless funding limitations require institutional allocations.

b. Recipients are responsible for promptly notifying the appropriate institution of any change in enrollment or financial situation. The educational institution will make necessary changes and notify the commission.

27.1(10) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedure set forth in 283—Chapters 4 and 5, Iowa Administrative Code.

27.1(11) Institutional reporting. The commission will monitor the program according to this chapter and will require participating postsecondary institutions that receive funds for enrolled students to furnish any information necessary for the implementation or administration of the program.

This rule is intended to implement Iowa Code section 261.93 as amended by 2012 Iowa Acts, House File 2465, section 26, and section 261.97.

[ARC 0394C, IAB 10/17/12, effective 11/21/12; ARC 1491C, IAB 6/11/14, effective 7/30/14]

[Filed 9/13/90, Notice 7/11/90—published 10/3/90, effective 11/7/90]

[Filed 9/13/91, Notice 7/24/91—published 10/2/91, effective 11/6/91]

[Filed 1/20/95, Notice 12/7/94—published 2/15/95, effective 3/22/95]

[Filed 11/30/95, Notice 10/25/95—published 12/20/95, effective 1/26/96]

[Filed 4/11/03, Notice 2/19/03—published 4/30/03, effective 6/4/03]

[Filed ARC 0394C (Notice ARC 0249C, IAB 8/8/12), IAB 10/17/12, effective 11/21/12]

[Filed ARC 1491C (Notice ARC 1345C, IAB 2/19/14), IAB 6/11/14, effective 7/30/14]

CHAPTER 7
APPEALS AND HEARINGS

[Ch 7, July 1973 IDR Supplement, renumbered as Ch 81]

[Prior to 7/1/83, Social Services[770] Ch 7]

[Prior to 2/11/87, Human Services[498]]

PREAMBLE

This chapter applies to contested case proceedings conducted by or on behalf of the department. The definitions in rule 441—7.1(17A) apply to the rules in both Division I and Division II of Chapter 7. [ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.1(17A) Definitions.

“*Administrative hearing*” means a type of hearing that an appellant may elect in which the presiding officer reviews the written record only and makes a decision based on the facts available within the appeal file. An administrative hearing does not require an in-person or teleconference hearing. The final determination to establish whether an administrative hearing may be held will be made by the appeals section or the presiding officer.

“*Administrative law judge*” means an employee of the department of inspections and appeals who conducts appeal hearings.

“*Agency*” means the Iowa department of human services, including any of its local, institutional, or central administrative offices.

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. For financial assistance (including the family investment program, refugee cash assistance, child care assistance, emergency or disaster assistance, family or community self-sufficiency grants, family investment program hardship exemptions, and state supplementary assistance dependent person, in-home health related care, and residential care facility benefits), a person:

- Whose request to be given an application was denied.
- Whose application for assistance has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a reduction or cancellation of assistance.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

2. For food assistance, a person:

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Who contests the effective date of assistance.
- Who contests the amount of benefits granted.
- Who has been notified that there will be a reduction or cancellation of benefits.
- Whose request to receive a credit for benefits from an electronic benefit transfer (EBT) account has been denied.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.

3. For medical assistance, healthy and well kids in Iowa, IowaCare, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Whose eligibility has been terminated, suspended or reduced.
- Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.

- Who has received a determination of the amount of medical expenses that must be incurred to establish income eligibility for the medically needy program or a determination of income for the purposes of imposing any premiums, enrollment fees or cost sharing.
 - Who has been notified that the level of services provided by a nursing facility is not needed based on a preadmission screening and resident review (PASRR) evaluation.
 - Who has been notified that level of care requirements have not been met.
 - Who has been aggrieved by a failure to take into account the appellant's choice in assignment to a coverage group.
 - Who contests the effective date of assistance or services.
 - Who contests the amount or effective date of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
 - Who contests the amount of client participation.
 - Whose claim for payment or prior authorization has been denied.
 - Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
 - Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
 - Who has been notified that an overpayment of benefits has been established and repayment is requested.
 - Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).
4. For social services, including, but not limited to, adoption, foster care, and family-centered services, a person (see numbered paragraph “7” for providers):
- Whose request to be given an application was denied.
 - Whose application for services or payment for adoption subsidy or foster care has been denied or has not been acted on in a timely manner.
 - For whom it is determined that the person must participate in a service program.
 - Whose claim for payment of services has been denied.
 - Who has been notified that a protective or vendor payment will be established.
 - Who has been notified that there will be a reduction or cancellation of services.
 - Who has been notified that an overpayment of services has been established and repayment is requested.
 - Who applies for an adoption subsidy after the adoption has been finalized.
 - Who alleges that the adoptive placement of a child has been denied or delayed when an adoptive family is available outside the jurisdiction with responsibility for handling the child's case.
 - Who has not been referred to community care as provided in rule 441—186.2(234).
 - Who has been referred to community care as provided in rule 441—186.2(234) and has exhausted the community care provider's dispute resolution process.
 - Who has been referred to aftercare services under 441—Chapter 187 and has exhausted the aftercare provider's dispute resolution process.
5. For child support recovery, a person:
- Who is not entitled to a support payment in full or in part because of the date of collection, as provided under rule 441—95.13(17A), or whose dispute based on the date of collection has not been acted on in a timely manner.
 - Who is contesting a claim or offset as provided in 441—subrule 95.6(3), 95.7(8), or 98.81(3) by alleging a mistake of fact. “Mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral or submission. The issue on appeal shall be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.
 - Whose name has been certified for passport sanction as provided in Iowa Code section 252B.5.

- Who has been notified that there will be a termination in services as provided in rule 441—95.14(252B).

6. For PROMISE JOBS, a person:

- Whose claim for participation allowances has been denied, reduced, or canceled.
- Who claims that the contents of the family investment agreement are not sufficient or necessary for the family to reach self-sufficiency.
- Who is dissatisfied with the results of informal grievance resolution procedures, or who fails or refuses to receive informal grievance resolution procedures.
- Who has been notified that PROMISE JOBS services will be canceled due to imposition of a limited benefit plan.
- Who has been notified that an overpayment of benefits has been established and repayment is requested.
- Who alleges acts of discrimination on the basis of race, creed, color, sex, age, physical or mental disability, religion, national origin, or political belief.
- Who claims displacement by a PROMISE JOBS participant.

7. For providers, a person or entity:

- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
- Whose claim for payment or request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology.
- Whose contract as a Medicaid patient manager has been terminated.
- Who has been subject to the withholding of a payment to recover a prior overpayment or who has received an order to repay an overpayment pursuant to 441—subrule 79.4(7).
- Who has been notified that the managed care reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.

- Who has been subject to an adverse action related to the Iowa electronic health record incentive program pursuant to rule 441—79.16(249A).

- Who, as a managed care organization (MCO) provider or Iowa plan contractor when acting on behalf of a member, has a dispute regarding payment of claims.

8. For the child or dependent adult abuse registry, juvenile sex offender registry or criminal record check evaluation, a person:

- Who is a person alleged responsible for child abuse.
- Who has requested correction of dependent adult abuse information.
- Who has been restricted from or denied employment in a health care facility, state institution, or other facility based on a record check. "Employment" includes, but is not limited to, service as an employee, a volunteer, a provider, or a contractor. "Facilities" include, but are not limited to, county or multicounty juvenile detention homes and juvenile shelter care homes, child-placing agencies, substance abuse treatment programs, group living foster care facilities, child development homes, child care centers, state resource centers, mental health institutes, and state training schools.

- Who is contesting a risk assessment decision as provided in rule 441—103.34(692A) by alleging that the risk assessment factors have not been properly applied, the information relied upon to support the assessment findings is inaccurate, or the procedures were not correctly followed.

9. For mental health and developmental disabilities, a person:

- Whose application for state payment under 441—Chapter 153, Division IV, has been denied or has not been acted upon in a timely manner.
- Who has been notified that there will be a reduction or cancellation of services under the state payment program.

10. For HIPAA (Health Insurance Portability and Accountability Act) decisions, a current or former applicant or recipient of Medicaid or HAWK-I, or a person currently or previously in a department facility whose request:

- To restrict use or disclosure of protected health information was denied.
- To change how protected health information is provided was denied.
- For access to protected health information was denied. When the denial is subject to reconsideration under 441—paragraph 9.9(1) “i,” persons denied access due to a licensed health care professional’s opinion that the information would constitute a danger to that person or another person must first exhaust the reconsideration process.
- To amend protected health information was denied.
- For an accounting of disclosures was denied.

11. For drug manufacturers, a manufacturer that has received a notice of decision regarding disputed drug rebates pursuant to the dispute resolution procedures of a national drug rebate agreement or an Iowa Medicaid supplemental drug rebate agreement.

12. Bidders that have participated in a competitive procurement bid process. Appeals resulting from a competitive procurement bid process will be handled pursuant to Chapter 7, Division II.

13. Individuals and providers that are not listed in paragraphs “1” to “12” may meet the definition of an aggrieved person if the department has taken an adverse action against that individual or provider.

“*Appeal*” denotes a review and hearing request made by a person who is affected by a decision made by the agency or its designee. An appeal shall be considered a contested case within the meaning of Iowa Code chapter 17A.

“*Appeals advisory committee*” means a committee consisting of central office staff who represent the department in the screening of proposed decisions for the director.

“*Appeals section*” means the unit within the department of human services that receives appeal requests, certifies requests for hearing, and issues final appeal decisions.

“*Appellant*” denotes the person who claims or asserts a right or demand or the party who takes an appeal from a hearing to an Iowa district court.

“*Attribution appeal*” means an appeal to determine if additional resources can be allocated for the community spouse when the other spouse has entered a medical institution or is applying for home-and community-based waiver services. The result of the attribution appeal may affect Medicaid eligibility. An appellant may elect to have an attribution appeal held by administrative hearing.

“*Authorized representative*” means a person or organization designated by an appellant to act on the appellant’s behalf or who has legal authority to act on behalf of the appellant, such as a guardian or power of attorney.

“*Bidder*” means an individual or entity that submits a proposal in response to a competitive procurement issued by the department.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under Iowa Code section 17A.10A.

“*Department*” means the Iowa department of human services.

“*Department of inspections and appeals*” means the state agency that contracts with the department to conduct appeal hearings.

“*Director*” means the director of the department of human services or the director’s designee.

“*Due process*” denotes the right of a person affected by an agency decision to receive a notice of decision or notice of action and an opportunity to be heard at an appeal hearing and to present an effective defense.

“*Electronic account*” means a Web-based account established by the department for an applicant or member for communication between the department and the applicant or member.

“*Electronic case record*” means an electronic file that includes all information collected and generated by the department regarding each individual’s Medicaid or healthy and well kids in Iowa eligibility and enrollment, including all documentation required for eligibility and any information collected or generated as part of a fair hearing process conducted by the department or through the exchange appeals process.

“Ex parte communication” means written, oral, or other forms of communication between a party to the appeal and the presiding officer while an appeal is pending when all parties were not given the opportunity to participate.

“Exchange” means an American health benefit exchange established pursuant to Section 1311 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148). This entity makes qualified health plans available to qualified individuals and qualified employers.

“Food assistance administrative disqualification hearing” means a type of hearing used to determine if an individual fraudulently received benefits for which the individual was not eligible. A presiding officer shall determine if the individual will be banned from participating in the food assistance program for a period of time.

“Group hearings” denotes an opportunity for two or more persons to present their case jointly when all have the same complaint against agency policy.

“Informal conference” means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, and a representative of the department. The purpose of the informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action, to provide an opportunity for the appellant to explain the appellant’s action or position, and to provide an opportunity for the appellant to examine the contents of the case record, including any electronic case record, plus all documents and records to be used by the department at the hearing in accordance with 441—Chapter 9.

“In person or face-to-face hearing” means an appeal hearing conducted by an administrative law judge who is physically present in the same location as the appellant.

“Intentional program violation” means deliberately making a false or misleading statement; or misrepresenting, concealing, or withholding facts; or committing any act that is a violation of the Food and Nutrition Act of 2008, food assistance program regulations, or any state law relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of an electronic benefit transfer (EBT) card. An intentional program violation is determined through a food assistance administrative disqualification hearing. The hearing may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both.

“Local office” means the county, institution or district office of the department of human services.

“Party” means a party as defined in Iowa Code subsection 17A.2(8).

“Prehearing conference” means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, a representative of the department and a presiding officer. The purpose of the prehearing conference is to discuss the appealed issue, to inquire as to the potential for voluntary settlement, to establish the hearing date, to establish the location of the hearing including whether the hearing will be by telephone or in person, and to discuss procedural matters relevant to the case.

“Presiding officer” means an administrative law judge employed by the department of inspections and appeals. The presiding officer may also be the department’s director or the director’s designee. The presiding officer has the authority to conduct appeal hearings and render proposed and final decisions.

“Presumption” denotes an inference as to the existence of a fact not known or drawn from facts that are known.

“PROMISE JOBS discrimination complaint” means any written complaint filed in accordance with the provisions of rule 441—7.8(17A) by a PROMISE JOBS participant or the participant’s representative which alleges that an adverse action was taken against the participant on the basis of race, creed, color, sex, national origin, religion, age, physical or mental disability, or political belief.

“PROMISE JOBS displacement grievance” means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives that alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers described in rule 441—93.17(239B).

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, and decision and order in contested cases where the department did not preside.

“Reconsideration” means a review process that must be exhausted before an appeal hearing is granted. Such review processes include, but are not limited to, a reconsideration request through:

1. The Iowa Medicaid enterprise (IME) or its subcontractors,
2. The managed health care review committee,
3. A division or bureau within the department,
4. The mental health and disability services commission,
5. A licensed health care professional as specified in 441—paragraph 9.9(1)“i,” or
6. Any division or bureau within the department, from a bidder in a competitive procurement bid process.

Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

“Sent” means deposited in the mail with first-class postage or posted to an individual’s electronic account.

“Teleconference hearing” means an appeal hearing conducted by an administrative law judge over the telephone.

“Timely notice period” is the time from the date a notice is sent to the effective date of action. That period of time shall be at least ten calendar days, except in the case of probable fraud of a beneficiary. When probable fraud exists, “timely notice period” shall be at least five calendar days from the date a notice is sent.

“Vendor” means a provider of health care under the medical assistance program or a provider of services under a service program.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 8994B, IAB 8/11/10, effective 10/1/10; ARC 9254B, IAB 12/1/10, effective 1/1/11; ARC 0304C, IAB 9/5/12, effective 11/1/12; ARC 0487C, IAB 12/12/12, effective 2/1/13; ARC 0583C, IAB 2/6/13, effective 4/1/13; ARC 0819C, IAB 7/10/13, effective 9/1/13; ARC 1206C, IAB 12/11/13, effective 1/15/14; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.2(17A) Application of rules. Rescinded IAB 7/29/09, effective 9/2/09.

DIVISION I

441—7.3(17A) Presiding officer. Appeal hearings shall be conducted by a presiding officer appointed by the department of inspections and appeals pursuant to Iowa Code section 10A.801. The presiding officer shall not be connected in any way with the previous actions or decisions on which the appeal is made. Nor shall the presiding officer be subject to the authority, direction, or discretion of any person who has prosecuted or advocated in connection with that case, the specific controversy underlying that case, or any pending factually related contested case or controversy involving the same parties.

441—7.4(17A) Notification of hearing procedures. Hearing procedures shall be published in the form of rules and shall be made available to all applicants, recipients, appellants, and other interested groups and individuals. Procedures for hearings shall be identified in the notice of hearing issued to all parties as provided in subrule 7.10(7).

7.4(1) Hearing procedures must be furnished in electronic and paper format and orally as appropriate. The procedures must be written in plain language and in a manner that is accessible:

a. To individuals who are limited English proficient through oral interpretation, written translations, and taglines in non-English languages indicating the availability of language services. The services shall be at no cost to the individual.

b. To individuals living with disabilities through the provision of auxiliary aids in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The services shall be at no cost to the individual.

7.4(2) The department shall inform individuals of the availability of the services and how to access such services.

[ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.5(17A) The right to appeal. Any person or group of persons may file an appeal with the department concerning any issue. The department shall determine whether a hearing shall be granted.

7.5(1) *When a hearing is granted.* A hearing shall be granted to any appellant when the right to a hearing is granted by state or federal law or Constitution, except as limited in subrules 7.5(2) and 7.5(4).

7.5(2) *When a hearing is not granted.* A hearing shall not be granted when:

a. One of the following issues is appealed:

(1) The service is no longer available through the department.
(2) Repayment of food assistance benefits as a result of trafficking has been requested on Form 470-4179, Notice of Food Assistance Trafficking Debt.

(3) Payment for a medical claim has been made in accordance with the Medicaid payment schedule for the service billed.

(4) Children have been removed from or placed in a specific foster care setting.

(5) Children have not been placed with or have been removed from a preadoptive family.

(6) A qualified provider or qualified entity has denied a person presumptive eligibility for Medicaid under 441—subrule 75.1(30), 75.1(40), or 75.1(44).

(7) A qualified provider or qualified entity has determined a person to be presumptively eligible for Medicaid under 441—subrule 75.1(30), 75.1(40), or 75.1(44), but presumptive eligibility ends due to the person's failure to file an application.

(8) Notice has been issued from the treasury offset program for a food assistance overpayment.

(9) A rate determination has been reviewed under rule 441—152.3(234).

(10) The maximum provider rate ceiling has been contested for child care assistance under 441—subrule 170.4(7).

(11) The risk pool board has accepted or rejected an application for assistance from the risk pool fund or the tobacco settlement fund risk pool fund in whole or in part under rules 441—25.66(426B) and 441—25.77(78GA,ch1221).

(12) The appellant has a complaint about child support recovery matters other than those described in numbered paragraph “5” of the definition of an aggrieved person in rule 441—7.1(17A). This includes collection of an annual fee for child support services as specified in Iowa Code chapter 252B.

(13) The appellant has a complaint about a local office employee (when this is the only issue of the appeal).

(14) A request for an exception to policy under 441—subrule 1.8(1) has been denied.

(15) A final decision from a previous hearing with a presiding officer has been implemented.

(16) The issue appealed is not eligible for further hearing based on the doctrine of issue preclusion.

(17) The appeal involves patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.

(18) An MCO provider or Iowa plan contractor fails to submit a document providing the member's approval of the request for appeal.

(19) Notice was issued by the exchange regarding determination of eligibility for enrollment in a qualified health plan or for advance payment of the premium tax credit or cost-sharing reductions.

(20) Notice has been issued regarding the completion of a family assessment that indicates no determination of child abuse or neglect has been made and no information has been reported to the child abuse registry.

b. Either state or federal law requires automatic grant adjustment for classes of recipients. The director of the department shall decide whether to grant a hearing in these cases. When the reason for an individual appeal is incorrect grant computation in the application of these automatic adjustments, a hearing may be granted.

c. State or federal law or regulation provides for a different forum for appeals.

d. The appeal is filed prematurely as:

(1) There is no adverse action by the department, or

(2) The appellant has not exhausted the reconsideration process.

e. Upon review, it is determined that the appellant does not meet the criteria of an aggrieved person as defined in rule 441—7.1(17A).

f. The sole basis for denying, terminating or limiting assistance under 441—Chapter 47 or 441—Chapter 58 is that funds for the respective programs have been reduced, exhausted, eliminated or otherwise encumbered.

g. The appellant is an “aggrieved party” as defined in rule 441—22.1(225C) and is eligible for a compliance hearing with the mental health and developmental disabilities commission in accordance with rule 441—22.5(225C).

h. The issue appealed is moot.

i. The issue appealed has previously been determined in another appeal by the same appellant.

7.5(3) Group hearings. The department may respond to a series of individual requests for hearings by requesting the department of inspections and appeals to conduct a single group hearing in cases in which the sole issue involved is one of state or federal law or policy or change in state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

7.5(4) Time limit for granting hearing to an appeal. Subject to the provisions of subrule 7.5(1), when an appeal is made, the granting of a hearing to that appeal shall be governed by the following timeliness standards:

a. General standards. In general, a hearing shall be held if the appeal is made within 30 days after official notification of an action or before the effective date of action. When the appeal is made more than 30 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) The director may grant a hearing if one or more of the following conditions existed:

1. There was a serious illness or death of the appellant or a member of the appellant’s family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The appellant offers a good cause beyond the appellant’s control, which can be substantiated.
4. There was a failure to receive the department’s notification for a reason not attributable to the appellant. Lack of a forwarding address is attributable to the appellant. A hearing may be granted if an appellant provides proof that a forwarding address was not supplied due to fear of domestic violence, homelessness, or other good cause.

(2) The time in which to appeal an agency action shall not exceed 90 days. Appeals made more than 90 days after notification shall not be heard.

(3) The day after the official notice is sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

b. Food assistance, Medicaid or healthy and well kids in Iowa standard. For appeals regarding food assistance, Medicaid or the healthy and well kids in Iowa program, a hearing shall be held if the appeal is made within 90 days after official notification of an action.

c. Offset standards. For appeals regarding state or federal tax or debtor offsets, a hearing shall be held if the appeal is made within 15 days after official notification of the action. Counties have 30 days to appeal offsets, as provided in 441—paragraph 14.4(1)“e.” When the appeal is made more than 15 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) The director may grant a hearing if one or more of the following conditions existed:

1. There was a serious illness or death of the appellant or a member of the appellant’s family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The appellant offers a good cause beyond the appellant’s control, which can be substantiated.
4. There was a failure to receive the department’s notification for a reason not attributable to the appellant. Lack of a forwarding address is attributable to the appellant. A hearing may be granted if an appellant provides proof that a forwarding address was not supplied due to fear of domestic violence, homelessness, or other good cause.

(2) The time in which to appeal an offset action shall not exceed 90 days. Appeals made more than 90 days after notification shall not be heard.

(3) The day after the official notice is sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

d. Abuse standard.

(1) For appeals regarding dependent adult abuse, a hearing shall be held if the appeal is made within six months after official notification of the action as provided in Iowa Code section 235B.10.

(2) For appeals regarding child abuse, a hearing shall be held if the appeal is made by a person alleged responsible for the abuse within 90 days after official notification of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the hearing within 10 calendar days after the appeal notification.

(3) The day after the official notice is sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

e. Displacement and discrimination standard. PROMISE JOBS displacement and discrimination appeals shall be granted hearing on the following basis:

(1) An appeal of an informal grievance resolution on a PROMISE JOBS displacement grievance shall be made in writing within 10 days of issuance (i.e., mailing) of the resolution decision or within 24 days of the filing of the displacement grievance, whichever is the shorter time period, unless good cause for late filing as described in subparagraph 7.5(4)“a”(1) is found.

(2) An appeal of a PROMISE JOBS discrimination complaint shall be made within the time frames provided in paragraph 7.5(4)“a” in relation to the action alleged to have involved discrimination.

f. Risk assessment standard. An appeal of a sex offender risk assessment shall be made in writing within 14 calendar days of issuance of the notice.

7.5(5) Informal settlements. The time limit for submitting an appeal is not extended while attempts at informal settlement are in progress.

7.5(6) Appeals of family investment program (FIP), refugee cash assistance (RCA), and PROMISE JOBS overpayments.

a. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the existence, computation, and amount of a FIP, RCA, or PROMISE JOBS overpayment begins when the department sends the first notice informing the person of the overpayment. The notice shall be sent on:

1. Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance;
2. Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance;
3. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance;
4. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance; or
5. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent notice as identified in paragraph “a.”

c. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the recovery of an overpayment through benefit reduction, as described at rule 441—46.25(239B), but not the existence, computation, or amount of an overpayment, begins when the person receives Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a FIP or RCA overpayment.

7.5(7) Appeals of Medicaid, state supplementary assistance (SSA), and HAWK-I program overpayments.

a. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the existence and amount of a medical assistance, state supplementary assistance, or healthy and well kids in Iowa (HAWK-I) program overpayment begins when the department sends the first notice informing the person of the overpayment. The notice shall be sent on:

- (1) Form 470-2891, Notice of Medical Assistance Overpayment; or
- (2) Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Overpayment.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent notice as identified in paragraph “a.”

7.5(8) Appeal rights under the family investment program limited benefit plan. A participant only has the right to appeal the establishment of the limited benefit plan once at the time the department issues

the timely and adequate notice that establishes the limited benefit plan. However, when the reason for the appeal is based on an incorrect grant computation, an error in determining the eligible group, or another worker error, a hearing shall be granted when the appeal otherwise meets the criteria for hearing.

7.5(9) Appeals of child care assistance benefit overissuances or overpayments.

a. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of a child care assistance benefit overissuance or overpayment begins when the department sends the first notice informing the person of the child care assistance overpayment. The notice shall be sent on Form 470-4530, Notice of Child Care Assistance Overpayment.

b. A hearing shall not be held if an appeal is filed in response to a second or subsequent notice about the same overpayment.

7.5(10) Appeals of food assistance overpayments.

a. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the existence, computation, and amount of a food assistance overpayment begins when the department sends the first notice informing the person of the food assistance overpayment. The notice shall be sent on:

- (1) Form 470-0338, Demand Letter for Food Assistance Agency Error Overissuance;
- (2) Form 470-3486, Demand Letter for Food Assistance Intentional Program Violation

Overissuance; or

(3) Form 470-3487, Demand Letter for Food Assistance Inadvertent Household Error Overissuance.

b. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the recovery of an overpayment through benefit reduction, but not the existence, computation, or amount of an overpayment, begins when the person receives Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a food assistance overpayment.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 8439B, IAB 1/13/10, effective 3/1/10; ARC 9698B, IAB 9/7/11, effective 8/15/11; ARC 0304C, IAB 9/5/12, effective 11/1/12; ARC 0487C, IAB 12/12/12, effective 2/1/13; ARC 0583C, IAB 2/6/13, effective 4/1/13; ARC 0819C, IAB 7/10/13, effective 9/1/13; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.6(17A) Informing persons of their rights.

7.6(1) Written and oral notification. The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status.

a. Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance:

- (1) The right to request a hearing.
- (2) The procedure for requesting a hearing.
- (3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.
- (4) Provisions, if any, for payment of legal fees by the department.

b. Written notification shall be given on the application form and on all notices of decisions. Oral explanation shall also be given regarding the policy on appeals during the application process and at the time of any contemplated action by the agency when the need for an explanation is indicated.

c. Persons not familiar with English shall be provided a translation into the language understood by them in written form or orally. Appellants are entitled to have an interpreter present during appeal hearings. In all cases when a person is illiterate or semiliterate, the person shall be advised of each right to the satisfaction of the person's understanding.

d. Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

7.6(2) Authorized representation or responsible party. Persons may be represented for purposes of this chapter by an authorized representative or an individual or organization recognized by the department as acting responsibly for an applicant or beneficiary pursuant to policy governing a particular program (hereinafter referred to as a "responsible party"), unless otherwise specified by statute or federal regulations.

a. The designation of an authorized representative must be in writing and include the signature of the person designating the authorized representative. Legal documentation of authority to act on behalf of a person, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a signed designation by the person.

b. An authorized representative or responsible party must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding an applicant or beneficiary provided by the department.

c. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible party must sign an agreement that such provider, staff member or volunteer will adhere to the regulations in Part 431, Subpart F, of 42 CFR Chapter IV and in 45 CFR 155.260(f) (relating to confidentiality of information), § 447.10 of 42 CFR Chapter IV (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflict of interest and confidentiality of information.

d. An authorized representative or responsible party may file an appeal on the appellant's behalf, receive copies of appeal correspondence, and act on behalf of the appellant in all other matters regarding the appeal.

e. The authorized representative or responsible party is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual the authorized representative or responsible party represents.

f. The power to act as an authorized representative is valid until the appellant modifies the authorization or notifies the department that the representative is no longer authorized to act on the appellant's behalf, or the authorized representative informs the agency that the authorized representative is no longer acting in such capacity, or there is a change in the legal authority upon which the individual's or organization's authority was based. Such notice must be in writing and include the appellant's, authorized representative's or responsible party's signature as appropriate.

g. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority may be submitted online via the department's Web site, by mail, by electronic mail, by facsimile transmission or in person.

h. For purposes of this rule, the department shall accept electronic, including telephonically recorded, signatures and handwritten signatures transmitted by facsimile or other electronic transmission.

i. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority previously submitted to the department that comply with the requirements of this rule will continue to apply for purposes of appeals, consistent with their terms.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.7(17A) Notice of intent to approve, deny, terminate, reduce, or suspend assistance or deny reinstatement of assistance.

7.7(1) Notification.

a. Whenever the department proposes to cancel or reduce assistance or services or to revoke a license, certification, approval, registration, or accreditation, it shall give timely and adequate notice of the pending action, except:

(1) When a service is deleted from the state's comprehensive annual service plan in the social services block grant program at the onset of a new program year, or

(2) As provided in subrule 7.7(2).

b. For the purpose of this subrule, "assistance" includes food assistance, medical assistance, the family investment program, refugee cash assistance, child care assistance, emergency assistance, family or community self-sufficiency grant, PROMISE JOBS, state supplementary assistance, healthy and well kids in Iowa (HAWK-I) program, foster care, adoption, aftercare services, or other programs or services provided by the department.

c. The department shall give adequate notice of the approval or denial of assistance or services; the approval or denial of a license, certification, approval, registration, or accreditation; and pending action for a state or federal tax or debtor offset.

d. "Timely" means that the notice is sent at least ten calendar days before the date the action would become effective. The timely notice period shall begin on the day after the notice is sent.

e. "Adequate" means a written notice that includes:

- (1) A statement of what action is being taken,
- (2) The effective date of such action,
- (3) A clear statement of the specific reasons supporting the intended action,
- (4) The manual chapter number and subheading supporting the action and the corresponding rule reference,
- (5) An explanation of the appellant's right to appeal, and
- (6) The circumstances under which assistance is continued when an appeal is filed.

7.7(2) Dispensing with timely notice. Timely notice may be dispensed with, but adequate notice shall be sent no later than the date benefits would have been issued when:

a. There is factual information confirming the death of a recipient or of the family investment program payee when there is no relative available to serve as a new payee.

b. The recipient provides a clear written, signed statement that the recipient no longer wishes assistance, or gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, that the recipient understands this must be the consequence of supplying the information.

c. The recipient has been admitted or committed to an institution that does not qualify for payment under an assistance program.

d. The recipient has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

e. The recipient's whereabouts are unknown and mail directed to the recipient has been returned by the post office indicating no known forwarding address. When the recipient's whereabouts become known during the payment period covered by the returned warrant, the warrant shall be made available to the recipient.

f. The agency establishes that the recipient has been accepted for assistance in another state.

g. Cash assistance or food assistance is changed because a child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.

h. A change in the level of medical care is prescribed by the recipient's physician.

i. A special allowance or service granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance or service shall terminate at the end of the specified period.

j. The notice involves an adverse determination made with regard to the preadmission screening requirements.

k. The department terminates or reduces benefits or makes changes based on a completed Form 470-2881, 470-2881(S), 470-2881(M), or 470-4083(MS), Review/Recertification Eligibility Document, as described at 441—paragraph 40.27(1) "b" or rule 441—75.52(249A).

l. The agency terminates benefits for failure to return a completed report form, as described in paragraph "k."

m. The agency approves or denies an application for assistance.

n. The agency implements a mass change based on law or rule changes that affect a group of recipients.

7.7(3) Action due to probable fraud. When the agency obtains facts indicating that assistance should be canceled, suspended, or reduced because of the probable fraud of the recipient, and, where possible, the facts have been verified through collateral sources, notice of the action shall be timely when sent at least five calendar days before the action would become effective. The notice shall be sent by certified mail, return receipt requested.

7.7(4) Conference during the timely notice period. Rescinded IAB 7/10/13, effective 9/1/13.

7.7(5) Notification not required. Notification is not required in the following instances:

- a. When services in the social service block grant preexpenditure report are changed from one plan year to the next, or when the plan is amended because funds are no longer available.
- b. When service has been time-limited in the social service block grant preexpenditure report, and as a result the service is no longer available.
- c. When the placement of a person(s) in foster care is changed.
- d. When payment has been in accordance with the Medicaid payment schedule for the service billed because there is no adverse action.
- e. When services of the community self-sufficiency grant project are available to all PROMISE JOBS participants as specified in 441—subrule 47.46(1).

7.7(6) Reinstatement.

a. Whenever the department determines that a previously canceled case must remain canceled for a reason other than that covered by the original notice, timely and adequate notice shall be sent except as specified in subrule 7.7(2).

b. Whenever the department determines that a previously canceled case is eligible for reinstatement at a lower level of benefits, for a reason other than that covered by the original notice, timely and adequate notice shall be sent except as specified in subrule 7.7(2).

c. Food assistance cases are eligible for reinstatement only in circumstances found in rule 441—65.44(234). FIP cases are eligible for reinstatement only in circumstances found in 441—subrule 40.22(5).

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 0819C, IAB 7/10/13, effective 9/1/13; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.8(17A) Opportunity for hearing.

7.8(1) Initiating an appeal. To initiate an appeal, a person, the person's authorized representative or an individual or organization recognized by the department as acting responsibly for the person pursuant to policy governing a particular program must state in writing that the person disagrees with a decision, action, or failure to act on the person's case.

a. All appeals shall be made in writing, except for food assistance, Medicaid and healthy and well kids in Iowa appeals, which may be made by telephone or in person.

b. A written request may be submitted via the department's Web site or may be delivered by mail, electronic mail, facsimile transmission or personal delivery to the appeals section, to the local office, or to the department office that took the adverse action.

c. A request by telephone or in person may be made to the appeals section or to the department office that took the adverse action.

7.8(2) Filing the appeal. The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance, Medicaid and healthy and well kids in Iowa appeals) and has been communicated to the department by the appellant or appellant's representative.

A written appeal submitted by mail is filed on the date postmarked on the envelope sent to the department, or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

7.8(3) Informal conference. When requested by the appellant, an informal conference with a representative of the department shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

An informal conference need not be requested for the appellant to examine the contents of the case record, including any electronic case record, as provided in subrule 7.13(1) and 441—Chapter 9.

7.8(4) *Prehearing conference.* When requested by the appellant or department, a prehearing conference may be held with the appellant, a representative of the department and a presiding officer as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the prehearing conference, unless precluded by federal rule or state statute.

7.8(5) *Interference.* Neither an informal conference nor a prehearing conference shall be used to discourage appellants from proceeding with their appeals. The right of appeal shall not be limited or interfered with in any way, even though the person's complaint may be without basis in fact, or because of the person's own misinterpretation of law, agency policy, or methods of implementing policy.

7.8(6) *Right of the department to deny or dismiss an appeal.* The department or the department of inspections and appeals has the right to deny or dismiss the appeal when:

- a. It has been withdrawn by the appellant pursuant to subrule 7.8(8).
- b. The sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.
- c. It has been abandoned.
- d. The agency, by written notice, withdraws the action appealed and restores the appellant's status that existed before the action appealed was taken.
- e. The agency implements action and issues a notice of decision or notice of action to correct an error made by the agency which resulted in the appeal.

Abandonment may be deemed to have occurred when the appellant or the appellant's authorized representative fails, without good cause, to appear at the prehearing or hearing.

7.8(7) *Denial of due process.* Facts of harassing, threats of prosecution, denial of pertinent information needed by the appellant in preparing the appeal, as a result of the appellant's communicated desire to proceed with the appeal shall be taken into consideration by the administrative law judge in reaching a proposed decision.

7.8(8) *Withdrawal.* When the appellant desires to voluntarily withdraw an appeal, the worker, the presiding officer, or the appeals section shall accept a request from the appellant to withdraw the appeal by telephone, in writing or in person. A written request may be submitted in person, by mail or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The appellant may use Form 470-0492 or 470-0492(S), Request for Withdrawal of Appeal, for this purpose. For child abuse and dependent adult abuse appeals, the request to withdraw an appeal must be made in writing and signed by the appellant or the appellant's legal counsel.

7.8(9) *Department's responsibilities.* Unless the appeal is voluntarily withdrawn, the department worker or agent responsible for representing the department at the hearing shall:

- a. Within one working day of receipt, complete the worker information section of Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and forward that form, the written appeal, the postmarked envelope, if there is one, and a copy of the notification of the proposed adverse action to the appeals section.
- b. Forward a summary and supporting documentation of the worker's factual basis for the proposed action to the appeals section within ten days of the receipt of the appeal.
- c. Provide the appellant and the appellant's representative copies of all materials sent to the appeals section or the presiding officer to be considered in reaching a decision on the appeal at the same time as the materials are sent to the appeals section or the presiding officer.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 0487C, IAB 12/12/12, effective 2/1/13; ARC 0819C, IAB 7/10/13, effective 9/1/13; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.9(17A) Continuation of assistance pending a final decision on appeal.

7.9(1) *When assistance continues.* Assistance shall not be suspended, reduced, restricted, or canceled, nor shall a license, registration, certification, approval, or accreditation be revoked, or other proposed adverse action be taken pending a final decision on an appeal when:

- a. An appeal is filed within the timely notice period.

b. The appellant requests a hearing within ten days from receipt of a notice of cancellation or reduction of food assistance, family investment program, or medical assistance benefits, based on the completed report form, including:

(1) Review/Recertification Eligibility Document, Form 470-2881, 470-2881(S), 470-2881(M), or 470-4083(MS).

(2) Medicaid Review, Form 470-3118, 470-3118(S), 470-3118(M), or 470-3118(MS).

The date on which the notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

c. If it is determined at a hearing that the issue involves only federal or state law or policy, assistance will be immediately discontinued.

7.9(2) *When assistance does not continue.* The adverse action appealed to suspend, reduce, restrict, or cancel assistance; revoke a license, registration, certification, approval, or accreditation; or take other proposed action may be implemented pending a final decision on appeal when:

a. An appeal is not filed within the timely notice period or within ten days from the date notice is received. The date on which notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

b. Benefits or services were time limited through a certification period or prior authorization for which notice was given when established or for which adequate notice was provided.

c. The appellant directs the worker in writing to proceed with the intended action.

7.9(3) *Recovery of excess assistance paid pending a final decision on appeal.* Continued assistance is subject to recovery by the department if its action is affirmed, except as specified at subrule 7.9(5).

When the department action is sustained, excess assistance paid pending a hearing decision shall be recovered to the date of the decision. This recovery is not an appealable issue. However, appeals may be heard on the computation of excess assistance paid pending a hearing decision.

7.9(4) *Recovery of excess assistance paid when the appellant's benefits are changed prior to a final decision.* Recovery of excess assistance paid will be made to the date of change which affects the improper payment. The recovery shall be made when the appellant's benefits are changed due to one of the following reasons:

a. A determination is made at the hearing that the sole issue is one of state or federal law or policy or change in state or federal law or policy and not one of incorrect grant computation, and the grant is adjusted.

b. A change affecting the appellant's grant occurs while the hearing decision is pending and the appellant fails to request a hearing after notice of the change.

7.9(5) *Recovery of assistance when a new limited benefit plan is established.* Assistance issued pending the final decision of the appeal is not subject to recovery when a new limited benefit plan period is established. A new limited benefit plan period shall be established when the department is affirmed in a timely appeal of the establishment of the limited benefit plan. All of the following conditions shall exist:

a. The appeal is filed within the timely notice period of the notice of decision or notice of action establishing the beginning date of the LBP.

b. Assistance is continued pending the final decision of the appeal.

c. The department's action is affirmed.

7.9(6) *Recovery of assistance when a new ineligibility period is established for the use of an electronic access card at a prohibited location.* Assistance issued pending the final decision of the appeal is not subject to recovery when a new ineligibility period is established for the use of an electronic access card at a prohibited location. A new ineligibility period pursuant to 441—subrule 41.25(11) shall be established when the department is affirmed in a timely appeal of the establishment of an ineligibility period for the use of an electronic access card at a prohibited location. All of the following conditions shall exist:

a. The appeal is filed within the timely notice period of the notice of decision establishing the beginning date of the ineligibility period.

b. Assistance is continued pending the final decision of the appeal.

c. The department's action is affirmed.
[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 1261C, IAB 1/8/14, effective 3/1/14; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—7.10(17A) Procedural considerations.

7.10(1) Registration. Upon receipt of the notice of appeal, the department shall register the appeal.

7.10(2) Acknowledgment.

a. Upon receipt of the notice of appeal, the department shall send an acknowledgment of receipt of the appeal to the appellant, representative, or both. A copy of the acknowledgment of receipt of appeal will be sent to the appropriate departmental office.

b. For an appeal regarding child abuse, all subjects other than the person alleged responsible (appellant) will be notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

c. The department shall advise the person of any legal services which may be available and that the person may be represented by counsel at the person's own expense.

7.10(3) Granting a hearing. The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at that hearing in accordance with the applicable rules, state statutes, or federal regulations.

a. The appeals of those appellants who are granted a hearing shall be certified to the department of inspections and appeals for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at that hearing.

b. The appeals of those appellants who are denied a hearing shall not be closed until issuance of a letter to the appellant and the appellant's representative, advising of the denial of hearing and the basis upon which that denial is made. Any appellant that disagrees with a denial of hearing may present additional information relative to the reason for denial and request reconsideration by the department or a hearing over the denial.

7.10(4) Hearing scheduled. For those records certified for hearing, the department of inspections and appeals shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in department of inspections and appeals rules 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

a. In cases involving individual appellants, the hearing shall be held by teleconference call or in the appropriate department office.

b. In cases of appeals by vendors or agencies, the hearing shall be scheduled by teleconference call or at the most appropriate department office.

c. In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

d. In cases involving an appeal of a sex offender risk assessment, the hearing shall be held within 30 days of the date of the appeal request.

e. Emergency assistance appeals shall be expedited.

7.10(5) Method of hearing. The department of inspections and appeals shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in 441—7.13(17A). The appellant may request to have a presiding officer render a decision for attribution appeals through an administrative hearing.

7.10(6) Reschedule requests. Requests by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections and appeals directly except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections and appeals.

a. The appellant may request that the teleconference hearing be rescheduled as an in-person hearing. All requests made to the department or to the department of inspections and appeals for a teleconference hearing to be rescheduled as an in-person hearing shall be granted. Any appellant

request for an in-person hearing made to the department shall be communicated to the department of inspections and appeals immediately.

b. All other requests concerning the scheduling of a hearing shall be made to the department of inspections and appeals directly.

7.10(7) Notification. For those appeals certified for hearing, the department of inspections and appeals shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

a. The notice, as prescribed in Iowa Code section 17A.12(2), shall set forth:

(1) The date, time, method and place of the hearing;

(2) That evidence may be presented orally or documented to establish pertinent facts; and

(3) That the appellant may question or refute any testimony, may bring witnesses of the appellant's choice and may be represented by others, including an attorney, subject to federal law and state statute. The department will not pay for the cost of legal representation.

b. A copy of this notice shall be forwarded to the department employee who took the action and to other persons when circumstances peculiar to the case indicate that the notification may be desirable.

c. Notices of hearing regarding an intentional program violation shall be served upon the appellant both by certified mail, return receipt requested, and by first-class mail, postage prepaid, addressed to the appellant at the last-known address. All other notices of hearing shall be mailed by first-class mail, postage prepaid, addressed to the appellant at the appellant's last-known address.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 0487C, IAB 12/12/12, effective 2/1/13; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.11(17A) Information and referral for legal services. The local office shall advise persons appealing any agency decision of legal services in the community that are willing to assist them.

441—7.12(17A) Subpoenas. The department shall have all subpoena power conferred upon it by statute. Departmental subpoenas shall be issued to a party on request or will be served by the department when requested at least one week in advance of the hearing date.

441—7.13(17A) Rights of appellants during hearings.

7.13(1) Examination of the evidence. The department shall provide the appellant, or representative, opportunity prior to, as well as during, the hearing, to examine all materials permitted under rule 441—9.1(17A,22) or to be offered as evidence. Off the record, or confidential information which the appellant or representative does not have the opportunity to examine shall not be included in the record of the proceedings or considered in reaching a decision.

7.13(2) Conduct of hearing.

a. The hearing shall be conducted by an administrative law judge designated by the department of inspections and appeals. It shall be an informal rather than a formal judicial procedure and shall be designed to serve the best interest of the appellant. The appellant shall have the right to introduce any evidence on points at issue believed necessary, to challenge and cross-examine any statement made by others, and to present evidence in rebuttal. A verbatim record shall be kept of the evidence presented.

b. For an appeal hearing regarding child abuse, the administrative law judge, upon request of any party to the hearing, may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings as provided in Iowa Code section 235A.19.

7.13(3) Opportunity for response. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved and to be represented by counsel at their own expense.

7.13(4) Default. If a party to the appeal fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing pursuant to subrules 7.13(1), 7.13(2) and 7.13(3) and render a proposed decision on the merits in the absence of the defaulting party.

a. Where appropriate and not contrary to law, any party may move for a default decision against a party who has failed to file a required pleading or has failed to appear after proper service for a hearing. A proposed decision on the merits may be issued in the absence of a defaulting party.

b. A default decision or a proposed decision rendered on the merits in the absence of the defaulting party may award any relief against the defaulting party consistent with the relief requested before the default, but the relief awarded against the defaulting party may not exceed the requested relief before the default.

c. Proceedings after a default decision are specified in subrule 7.13(5).

d. Proceedings after a hearing and a proposed decision on the merits in the absence of a defaulting party are specified in subrule 7.13(6).

7.13(5) Proceedings after default decision.

a. Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless a motion to vacate the decision is filed within the time allowed for an appeal of a proposed decision by subrule 7.16(5).

b. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate at the contested case proceeding and must be filed with the Department of Human Services, Appeals Section, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact. Each affidavit must be attached to the motion. In lieu of an affidavit, the moving party may submit business records or other acceptable documentation from a disinterested third party that substantiates the claim of good cause.

(1) The appeals section shall be responsible for serving all parties with the motion to vacate. All parties to the appeal shall have ten days from service by the department to respond to the motion to vacate. All parties to the appeal shall be allowed to conduct discovery as to the issue of good cause and shall be allowed to present evidence on the issue before a decision on the motion, if a request to do so is included in that party's response. If the department responds to any party's motion to vacate, all parties shall be allowed another ten days to respond to the department.

(2) The appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists to set aside the default.

c. Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party.

d. "Good cause" for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing.

(1) Examples of good cause include, but are not limited to:

1. Sudden, severe illness or accident involving the party or the party's immediate family (spouse, partner, children, parents, sibling).

2. Death or serious illness in the party's immediate family.

3. Other circumstances evidencing an emergency situation which was beyond the party's control and was not reasonably foreseeable.

(2) Examples of circumstances that do not constitute good cause include, but are not limited to:

1. A lost or misplaced notice of hearing.

2. Confusion as to the date and time for the hearing.

3. Failure to follow the directions on the notice of hearing.

4. Oversleeping.

5. Other acts demonstrating a lack of due care by the party.

e. Upon determining whether good cause exists, the presiding officer shall issue a proposed decision on the motion to vacate, which shall be subject to review by the director pursuant to rule 441—7.16(17A).

f. Upon a final decision granting a motion to vacate, the contested case hearing shall proceed accordingly, after proper service of notice to all parties. The situation shall be treated as the filing of a new appeal for purposes of calculating time limits, with the filing date being the date the decision granting the motion to vacate became final.

g. Upon a final decision denying a motion to vacate, the default decision becomes final agency action.

7.13(6) *Proceedings after hearing and proposed decision on the merits in the absence of a defaulting party.*

a. Proposed decisions on the merits after a party has failed to appear or participate in a contested case become final agency action unless:

(1) A motion to vacate the proposed decision is filed by the defaulting party based on good cause for the failure to appear or participate, within the time allowed for an appeal of a proposed decision by subrule 7.16(5); or

(2) Any party requests review on the merits by the director pursuant to rule 441—7.16(17A).

b. If a motion to vacate and a request for review on the merits are both made in a timely manner after a proposed decision on the merits in the absence of a defaulting party, the review by the director on the merits of the appeal shall be stayed pending the outcome of the motion to vacate.

c. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate at the contested case proceeding and must be filed with the Department of Human Services, Appeals Section, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

(1) The appeals section shall be responsible for serving all parties with the motion to vacate. All parties to the appeal shall have ten days from service by the department to respond to the motion to vacate. All parties to the appeal shall be allowed to conduct discovery as to the issue of good cause and shall be allowed to present evidence on the issue before a decision on the motion, if a request to do so is included in that party's response. If the department responds to any party's motion to vacate, all parties shall be allowed another ten days to respond to the department.

(2) The appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists to set aside the default.

d. Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party.

e. "Good cause" for purposes of this rule is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing.

(1) Examples of good cause include, but are not limited to:

1. Sudden, severe illness or accident involving the party or the party's immediate family (spouse, partner, children, parents, sibling).

2. Death or serious illness in the party's immediate family.

3. Other circumstances evidencing an emergency situation which was beyond the party's control and was not reasonably foreseeable.

(2) Examples of circumstances that do not constitute good cause include, but are not limited to:

1. A lost or misplaced notice of hearing.

2. Confusion as to the date and time for the hearing.

3. Failure to follow the directions on the notice of hearing.

4. Oversleeping.

5. Other acts demonstrating a lack of due care by the party.

f. Upon determining whether good cause exists, the presiding officer shall issue a proposed decision on the motion to vacate, which shall be subject to review by the director pursuant to rule 441—7.16(17A).

g. Upon a final decision granting a motion to vacate, a new contested case hearing shall be held after proper service of notice to all parties. The situation shall be treated as the filing of a new appeal for purposes of calculating time limits, with the filing date being the date the decision granting the motion to vacate became final.

h. Upon a final decision denying a motion to vacate, the proposed decision on the merits in the absence of a defaulting party becomes final unless there is request for review on the merits by the director made pursuant to paragraph 7.13(6) "a" or "j."

i. Any review on the merits by the director requested pursuant to paragraph 7.13(6) “a” and stayed pursuant to paragraph 7.13(6) “b” pending a decision on a motion to vacate shall be conducted upon a final decision denying the motion to vacate.

j. Upon a final decision denying a motion to vacate a proposed decision issued in the absence of a defaulting party, any party to the contested case proceeding may request a review on the merits by the director pursuant to rule 441—7.16(17A), treating the date that the denial of the motion to vacate became final as the date of the proposed decision.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 0304C, IAB 9/5/12, effective 11/1/12; ARC 0487C, IAB 12/12/12, effective 2/1/13]

441—7.14(17A) Limitation of persons attending.

7.14(1) The hearing shall be limited in attendance to the following persons, unless otherwise specified by statute or federal regulations: appellant, appellant’s representative, agency employees, agency’s legal representatives, other persons present for the purpose of offering testimony pertinent to the issues in controversy, and others upon mutual agreement of the parties. The administrative law judge may sequester witnesses during the hearing. Nothing in this rule shall be construed to allow members of the press, news media, or any other citizens’ group to attend the hearing without the written consent of the appellant.

7.14(2) For an appeal hearing regarding child abuse:

a. Subjects who file a motion to intervene, as provided in Iowa Code section 235A.19, will have the opportunity to appear at the prehearing conference. Any motion to intervene shall be considered by the administrative law judge at the prehearing conference.

b. The department shall not be considered to be a party who can adequately represent the interests of any other subject.

c. Subjects allowed to intervene as specified in subrule 7.5(4) will be considered parties to the hearing and will be allowed to attend the proceedings as provided in Iowa Code section 235A.19.

[ARC 0487C, IAB 12/12/12, effective 2/1/13]

441—7.15(17A) Medical examination. When the hearing involves medical issues, a medical assessment or examination by a person or physician other than the one involved in the decision under question shall be obtained and the report made a part of the hearing record when the administrative law judge or appellant considers it necessary. Any medical examination required shall be performed by a physician satisfactory to the appellant and the department at agency expense.

Forms 470-0502, Authorization for Examination and Claim for Payment, and 470-0447, Report on Incapacity, shall be utilized in obtaining medical information to be used in the appeal and to authorize payment for the examination.

441—7.16(17A) The appeal decision.

7.16(1) *Record.* The record in a contested case shall include, in addition to those materials specified in Iowa Code section 17A.12(6):

a. The notice of appeal.

b. All evidence received or considered and all other submissions, including the verbatim record of the hearing.

7.16(2) *Findings of fact.* Any party may submit proposed findings of fact. The presiding officer will rule on the proposed findings of fact. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record. The findings of fact and conclusions of law in the proposed or final decision shall be limited to contested issues of fact, policy, or law.

7.16(3) *Proposed decision.* Following the reception of evidence, the presiding officer shall issue a proposed decision, consisting of the issues of the appeal, the decision, the findings of fact and the conclusions of law. Each item shall be separately stated under individual headings. The proposed decision shall be sent by first-class mail, postage prepaid, addressed to the appellant at the appellant’s last-known address.

7.16(4) *Appeal of the proposed decision.* After issuing a proposed decision, the administrative law judge shall submit it to the department with copies to the appeals advisory committee.

a. The appellant, appellant's representative, a subject allowed to intervene as specified in subrule 7.5(4), the representative of a subject allowed to intervene as specified in subrule 7.5(4), or the department may appeal for the director's review of the proposed decision.

b. When the appellant, a subject allowed to intervene as specified in subrule 7.5(4), or the department has not appealed the proposed decision or when an appeal for the director's review of the proposed decision is not granted, the proposed decision shall become the final decision.

c. The director's review on appeal of the proposed decision shall be on the basis of the record as defined in subrule 7.16(1), except that the director need not listen to the verbatim record of the hearing in a review or appeal. The review or appeal shall be limited to issues raised prior to that time and specified by the party requesting the appeal or review. The director may designate another to act on the director's behalf in making final decisions.

7.16(5) *Time limit for appeal of a proposed decision.* Appeal for the director's review of the proposed decision must be made in writing to the director. The written request must be mailed or submitted in person or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The request must be postmarked or received within ten calendar days of the date on which the proposed decision was sent. The day after the proposed decision is sent is the first day of the time period within which a request for review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

7.16(6) *Appeal of the proposed decision by the department.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

When the director grants a review of a proposed decision on the department's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

7.16(7) *Appeal of the proposed decision by the appellant.* When the director grants a review of a proposed decision all other parties shall be so notified.

7.16(8) *Opportunity for oral presentation of appeal of the proposed decision.* In cases where there is an appeal of a proposed decision each party shall be afforded an opportunity to present oral arguments with the consent of the director. Any party wishing oral argument shall specifically request it. When granted, all parties shall be notified of the time and place.

7.16(9) *Time limits.*

a. A final decision on the appeal shall be issued within the following time frames:

(1) Appeals for all programs, except food assistance and vendors, shall be rendered within 90 days from the date of the appeal.

(2) Food assistance-only decisions shall be rendered within 60 days.

(3) PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

b. Failure to reach a decision within the time frames set forth in paragraph 7.16(9) "a" shall not affect the merits of the appellant's appeal.

c. Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.

d. For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.

e. The department shall take prompt, definite and final administrative action to carry out the decision rendered within seven calendar days of receipt of a copy of the final decision. When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.

7.16(10) Final decision. The department shall mail the final decision to the appellant at the appellant's last-known address by first-class mail, postage prepaid.

[ARC 8003B, IAB 7/29/09, effective 9/2/09; ARC 0487C, IAB 12/12/12, effective 2/1/13; ARC 1261C, IAB 1/8/14, effective 3/1/14]

441—7.17(17A) Exhausting administrative remedies. To have exhausted all adequate administrative remedies, a party need not request a rehearing under Iowa Code section 17A.16(2) where the party accepts the findings of fact as prepared by the administrative law judge, but wishes to challenge the conclusions of law, or departmental policy.

441—7.18(17A) Ex parte communication.

7.18(1) Prohibited communication. There shall be no written, oral, or other type of communication between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in the case while an appeal is pending, without all parties being notified of an opportunity to participate, unless specifically authorized by statute or rule.

a. This provision does not prevent the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those defined in paragraph “c.”

b. Persons described in paragraph “c” shall not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

c. For purposes of this rule:

(1) People with a direct or indirect interest in a case include any member of the appeals advisory committee and any person engaged in personally investigating, prosecuting, or advocating in either the case under appeal or a pending factually related case involving the same parties.

(2) The term “personally investigating” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

7.18(2) Commencement of prohibition. Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

7.18(3) When communication is ex parte. Rescinded IAB 4/30/03, effective 7/1/03.

7.18(4) Avoidance of ex parte communication. To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Written communications shall be provided to all parties to the appeal.

7.18(5) Communications not prohibited. Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines.

7.18(6) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect

of the communication is so prejudicial that the presiding officer should be disqualified from the case. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be disclosed. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of communication.

7.18(7) *Disclosure of prior receipt of information through ex parte communication.* Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

7.18(8) *Imposition of sanctions.* The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule, including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by department personnel shall be reported to the department for possible sanctions, including censure, suspension, dismissal, or other disciplinary action.

441—7.19(17A) Accessibility of hearing decisions. Summary reports of all hearing decisions shall be made available to local offices and the public. The information shall be presented in a manner consistent with requirements for safeguarding personal information concerning applicants and recipients.

441—7.20(17A) Right of judicial review and stays of agency action.

7.20(1) *Right of judicial review.* If a director's review is requested, the final decision shall advise the appellant or the appellant's representative of the right to judicial review by the district court. When the appellant or the appellant's representative is dissatisfied with the final decision and requests judicial review of the decision to the district court, the department shall furnish copies of the documents or supporting papers to district court, including a written transcript of the hearing. An appeal of the final decision to district court does not itself stay execution or enforcement of an agency action.

7.20(2) *Stays of agency action.*

a. Any party to a contested case proceeding may petition the director for a stay or other temporary remedies pending judicial review, of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

b. In determining whether to grant a stay pending judicial review, the director shall consider the factors listed in Iowa Code section 17A.19(5) "c."

c. A stay may be vacated by the director pending judicial review upon application of the department or any other party.

441—7.21(17A) Food assistance hearings and appeals.

7.21(1) *Appeal hearings.* All appeal hearings in the food assistance program shall be conducted in accordance with federal regulation, Title 7, Section 273.15, as amended to January 1, 2008.

7.21(2) *Food assistance administrative disqualification hearings.* All food assistance administrative disqualification hearings shall be conducted in accordance with federal regulation, Title 7, Section 273.16, as amended to January 1, 2008.

7.21(3) *Conduct of a food assistance administrative disqualification hearing.* Hearings over disqualification of a household member for an intentional program violation shall be conducted by a presiding officer.

a. The department of inspections and appeals shall serve an Intentional Program Violation Hearing Notice upon the household member both by certified mail, return receipt requested, and by first-class mail, postage prepaid, addressed to household member at the last-known address 30 calendar days before the initial hearing date.

b. The household member or that person's representative may request to postpone the hearing for up to 30 days, provided the request is made at least 10 calendar days before the scheduled hearing date.

c. At the hearing, the presiding officer shall advise the household member or that person's representative that the household member has the right to refuse to answer questions during the hearing and that the state or federal government may use the information in a civil or criminal action.

7.21(4) Consolidating hearings. Appeal hearings and food assistance administrative disqualification hearings may be consolidated if the issues arise out of the same or related circumstances, and the household member has been provided with notice of the consolidation by the department of inspections and appeals.

a. If the hearings are combined, the time frames for conducting a food assistance administrative disqualification hearing shall apply.

b. If the hearings are combined for the purpose of setting the amount of the overpayment at the same time as determining whether or not an intentional program violation has occurred, the household shall lose its right to a subsequent hearing on the amount of the overpayment.

7.21(5) Attendance at hearing. The household member shall be allowed ten days from the scheduled hearing to present reasons indicating good cause for not attending the hearing.

a. The appeals section shall certify the motion to vacate to the department of inspections and appeals for the presiding officer to review the motion, hold any additional proceedings, as appropriate, and determine if good cause exists for the default as specified in subrule 7.13(5). Timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party.

b. Unless good cause is determined, when the household member or that person's representative cannot be located or fails to appear at the scheduled hearing, the hearing shall be conducted without that person. In that instance, the presiding officer shall consider the evidence and determine if the evidence is clear and convincing that an intentional program violation was committed.

c. If the household member who failed to appear at the hearing is found to have committed an intentional program violation, but the presiding officer later determines that this person or the person's representative had good cause for not appearing, the previous hearing decision shall no longer be valid. A new hearing shall be conducted.

7.21(6) Food assistance administrative disqualification hearing decisions. The presiding officer shall base the determination of an intentional program violation on clear and convincing evidence that demonstrates the person committed, and intended to commit, an intentional program violation.

a. The proposed and final hearing decisions shall be made in accordance with rule 441—7.16(17A) unless otherwise specified.

b. The appeals section shall notify the household member and the local office of the final decision within 90 days of the date the household member is notified in writing that the hearing has been scheduled. If the hearing was postponed pursuant to subrule 7.21(3), paragraph "b," the 90 days for notifying the household member of the final decision shall be extended for as many days as the hearing is postponed.

c. The department shall take no action to disqualify a person from receiving food assistance before receiving the final appeal decision finding that the person has committed an intentional program violation.

d. No further administrative appeal procedure shall exist after the final decision is issued. The determination of an intentional program violation shall not be reversed by a subsequent hearing decision. However, the person may appeal the case to the Iowa district court.

e. When a court decision reverses a determination of an intentional program violation, the appeals section shall notify the local office of the specifics of the court decision.

[ARC 8003B, IAB 7/29/09, effective 9/2/09]

441—7.22(17A) FIP disqualification hearings. Rescinded IAB 4/30/03, effective 7/1/03.

441—7.23(17A) Contested cases with no factual dispute. If the parties in a contested case agree that there is no dispute of material fact, the parties may present all admissible evidence either by stipulation, or as otherwise agreed, in lieu of an evidentiary hearing. If an agreement is reached, the parties shall jointly submit a schedule for submission of the record, briefs and oral arguments to the presiding officer for approval.

441—7.24(17A) Emergency adjudicative proceedings.

7.24(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the United States Constitution and the Iowa Constitution and other provisions of law, the department may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order. Before issuing an emergency adjudicative order, the department shall consider factors including, but not limited to, the following:

- a. Whether there has been sufficient factual investigation to ensure that the agency is proceeding on the basis of reliable information.
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing.
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare.
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare.
- e. Whether the specific action contemplated by the agency is necessary to avoid the immediate danger.

7.24(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the department's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by using one or more of the following procedures:

- (1) Personal delivery.
- (2) Certified mail, return receipt requested, to the last address on file with the department.
- (3) Certified mail to the last address on file with the department.
- (4) First-class mail to the last address on file with the department.
- (5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that department orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the agency shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

7.24(3) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

7.24(4) Completion of proceedings. After the issuance of an emergency adjudicative order, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger. Issuance of a written emergency adjudicative order shall include notification of the date on which agency proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further agency proceedings to a later date will be granted only in compelling circumstances upon application in writing.

441—7.25 to 7.40 Reserved.

DIVISION II
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

441—7.41(17A) Scope and applicability. The rules in Division II apply to appeals based on the department's competitive procurement bid process.
[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.42(17A) Requests for timely filing of an appeal. Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

7.42(1) An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five days of the date of either a disqualification notice or notice of award. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five days of the date of the department's decision on reconsideration.

7.42(2) The written appeal shall state the grounds upon which the appellant challenges the department's decision.

7.42(3) The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. The mailing address is: Department of Human Services, Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Appeals may also be sent by fax, e-mail, or in-person delivery.
[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.43(17A) Bidder appeals. The bidder appeal shall be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals, unless otherwise noted.

7.43(1) Hearing time frame. The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

7.43(2) Registration. Upon receipt of the notice of appeal, the department shall register the appeal.

7.43(3) Acknowledgment. Upon receipt of the notice of appeal, the department shall send a written acknowledgment of receipt of the appeal to the appellant, representative, or both. The appropriate department staff will be notified of the appeal.

7.43(4) Granting a hearing. The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

a. The appeals of those appellants who are granted a hearing shall be certified to the department of inspections and appeals for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at the hearing.

b. Appeals of those appellants that are denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant that disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

7.43(5) Hearing scheduled. For those records certified for hearing, the department of inspections and appeals shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in the department of inspections and appeals rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

7.43(6) Method of hearing. The department of inspections and appeals shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.13(17A).

7.43(7) Reschedule requests. Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections and appeals, except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections and appeals. All requests concerning the scheduling of a hearing shall be made to the department of inspections and appeals directly.

7.43(8) Notification. For those appeals certified for hearing, the department of inspections and appeals shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

a. The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

b. A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.44(17A) Procedures for bidder appeal.

7.44(1) Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

7.44(2) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

7.44(3) Amendments to notice of appeal. The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

7.44(4) If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

7.44(5) The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

7.44(6) The record of the contested case shall include all materials specified in Iowa Code subsection 17A.12(6).

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.45(17A) Stay of agency action for bidder appeal.

7.45(1) When a stay may be requested.

a. Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

b. Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

7.45(2) When a stay is granted. In determining whether to grant a stay, the director shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

7.45(3) Vacation. A stay may be vacated by the issuing authority upon application of the department or any other party.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.46(17A) Request for review of the proposed decision. A request for review of the proposed decision shall follow the provisions outlined in subrules 7.16(5) to 7.16(7).

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.47(17A) Other procedural considerations.**7.47(1) Consolidation—severance.**

a. Consolidation. The presiding officer may, upon motion by any party or the presiding officer's own motion, consolidate any or all matters at issue in two or more contested case proceedings where:

- (1) The matters at issue involve common parties or common questions of fact or law;
- (2) Consolidation would expedite and simplify consideration of the issues; and
- (3) Consolidation would not adversely affect the rights of parties to those proceedings.

At any time prior to the hearing, any party may on motion request that the matters not be consolidated, and the motion shall be granted for good cause shown.

b. Severance. The presiding officer may, upon motion by any party or upon the presiding officer's own motion, for good cause shown, order any proceeding or portion thereof severed.

7.47(2) Presiding officer. Appeal hearings shall be conducted by an administrative law judge appointed by the department of inspections and appeals pursuant to rule 441—7.3(17A).

7.47(3) Rights of appellants during hearings. All rights afforded appellants at rule 441—7.13(17A) shall apply.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.48(17A) Appeal record.

7.48(1) The appeal record shall consist of all items specified in subrule 7.16(1).

7.48(2) The party that requests a transcription of the proceedings shall bear the cost.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.49(17A) Pleadings.

7.49(1) Pleadings may be required by rule, by the notice of hearing or by order of the presiding officer.

7.49(2) Petition. When an action of the department is appealed and pleadings are required under subrule 7.49(1), the aggrieved party shall file the petition.

a. Any required petition shall be filed within 20 days of delivery of the notice of hearing, unless otherwise ordered.

b. The petition shall state in separately numbered paragraphs the following:

- (1) On whose behalf the petition is filed;
- (2) The particular provisions of the statutes and rules involved;
- (3) The relief demanded and the facts and law relied upon for relief; and
- (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

7.49(3) Answer. If pleadings are required, the answer shall be filed within 20 days of service of the petition or notice of hearing, unless otherwise ordered.

a. Any party may move to dismiss or apply for a more definite, detailed statement when appropriate.

b. The answer shall show on whose behalf it is filed and specifically admit, deny or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and may contain as many defenses as the pleader may claim.

c. The answer shall state the name, address and telephone number of the person filing the answer and of the attorney representing that person, if any.

d. Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

7.49(4) Amendment. Any notice of hearing, petition or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.50(17A) Ex parte communications. The rules regarding ex parte communications listed at 441—7.18(17A) apply.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

441—7.51(17A) Right of judicial review. The rules regarding right of judicial review listed at 441—7.20(17A) apply.

[ARC 1206C, IAB 12/11/13, effective 1/15/14]

These rules are intended to implement Iowa Code chapter 17A.

- [Filed December 27, 1971; amended December 2, 1974]
- [Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 7/1/76]
- [Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]
- [Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]
- [Filed 5/8/78, Notice 10/19/77—published 5/31/78, effective 7/5/78]
- [Filed emergency 3/30/79—published 4/18/79, effective 3/30/79]
- [Filed 5/5/80, Notice 2/20/80—published 5/28/80, effective 7/2/80]
- [Filed 10/23/80, Notice 9/3/80—published 11/12/80, effective 12/17/80]
- [Filed 6/2/81, Notice 3/18/81—published 6/24/81, effective 8/1/81]
- [Filed 7/1/82, Notices 10/28/81, 12/23/81—published 7/21/82, effective 8/25/82]
- [Filed 7/1/82, Notice 5/12/82—published 7/21/82, effective 9/1/82]
- [Filed 10/28/83, Notice 8/17/83—published 11/23/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 5/4/84, Notice 2/29/84—published 5/23/84, effective 7/1/84]
- [Filed 5/4/84, Notice 3/14/84—published 5/23/84, effective 7/1/84]
- [Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]
- [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed 1/15/87, Notice 12/3/86—published 2/11/87, effective 4/1/87]
- [Filed emergency 7/14/89 after Notice 5/31/89—published 8/9/89, effective 8/1/89]
- [Filed 11/16/89, Notice 9/20/89—published 12/13/89, effective 2/1/90]
- [Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
- [Filed emergency 10/10/91 after Notice 8/21/91—published 10/30/91, effective 11/1/91]
- [Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
- [Filed 1/16/92, Notice 11/27/91—published 2/5/92, effective 4/1/92]
- [Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
- [Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]
- [Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
- [Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
- [Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
- [Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
- [Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
- [Filed 10/9/96, Notice 8/14/96—published 11/6/96, effective 1/1/97]
- [Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]◊
- [Filed 12/10/97, Notice 10/8/97—published 12/31/97, effective 3/1/98]
- [Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 8/5/98]
- [Filed without Notice 6/10/98—published 7/1/98, effective 8/15/98]
- [Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]

- [Filed 4/15/99, Notice 2/24/99—published 5/5/99, effective 7/1/99]
- [Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
- [Filed 2/14/01, Notice 11/29/00—published 3/7/01, effective 5/1/01]
- [Filed 5/9/01, Notice 2/21/01—published 5/30/01, effective 7/4/01]
- [Filed 4/10/03, Notice 2/19/03—published 4/30/03, effective 7/1/03]
- [Filed 9/22/03, Notice 7/23/03—published 10/15/03, effective 12/1/03]
- [Filed emergency 10/10/03—published 10/29/03, effective 11/1/03]
- [Filed 5/14/04, Notice 3/31/04—published 6/9/04, effective 7/14/04]
- [Filed emergency 7/9/04—published 8/4/04, effective 7/9/04]
- [Filed 9/23/04, Notice 8/4/04—published 10/13/04, effective 11/17/04]
- [Filed emergency 2/10/05 after Notice 12/22/04—published 3/2/05, effective 3/1/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
- [Filed 8/12/05, Notice 6/8/05—published 8/31/05, effective 11/1/05]
- [Filed 10/21/05, Notice 7/6/05—published 11/9/05, effective 12/14/05]
- [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
- [Filed 11/16/05, Notice 9/14/05—published 12/7/05, effective 2/1/06]
- [Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]
- [Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
- [Filed emergency 11/9/06 after Notice 7/5/06—published 12/6/06, effective 12/1/06]
- [Filed 3/14/07, Notice 8/30/06—published 4/11/07, effective 7/1/07]
- [Filed 1/9/08, Notice 11/7/07—published 1/30/08, effective 4/1/08]
- [Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
- [Filed ARC 8003B (Notice ARC 7730B, IAB 4/22/09), IAB 7/29/09, effective 9/2/09]
- [Filed ARC 8439B (Notice ARC 8083B, IAB 8/26/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8994B (Notice ARC 8756B, IAB 5/19/10), IAB 8/11/10, effective 10/1/10]
- [Filed Emergency ARC 9254B, IAB 12/1/10, effective 1/1/11]
- [Filed Emergency After Notice ARC 9698B (Notice ARC 9589B, IAB 6/29/11), IAB 9/7/11, effective 8/15/11]
- [Filed ARC 0304C (Notice ARC 0132C, IAB 5/30/12), IAB 9/5/12, effective 11/1/12]
- [Filed ARC 0487C (Notice ARC 0325C, IAB 9/5/12), IAB 12/12/12, effective 2/1/13]
- [Filed ARC 0583C (Notice ARC 0435C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
- [Filed ARC 0819C (Notice ARC 0671C, IAB 4/3/13), IAB 7/10/13, effective 9/1/13]
- [Filed ARC 1206C (Notice ARC 1000C, IAB 9/4/13), IAB 12/11/13, effective 1/15/14]
- [Filed ARC 1261C (Notice ARC 1129C, IAB 10/16/13), IAB 1/8/14, effective 3/1/14]
- [Filed ARC 1478C (Notice ARC 1385C, IAB 3/19/14), IAB 6/11/14, effective 8/1/14]

◊ Two or more ARCs

TITLE IV
FAMILY INVESTMENT PROGRAM
CHAPTER 40
APPLICATION FOR AID
[Prior to 7/1/83, Social Services[770] Ch 40]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—40.1 to 40.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—40.1(239) to 40.9(239)]

441—40.21(239B) Definitions.

“Applicant” means a person for whom assistance is being requested, parent(s) living in the home with the child(ren), and the nonparental relative as defined in 441—subrule 41.22(3) who is requesting assistance for the child(ren).

“Assistance unit” includes any person whose income is considered when determining eligibility or the family investment program grant amount.

“Central office” shall mean the state administrative office of the department of human services.

“Change in income” means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

“Department” shall mean the Iowa department of human services.

“Dependent” means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

“Dependent child” or *“dependent children”* means a child or children who meet the nonfinancial eligibility requirements of the family investment program.

“Income in kind” is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary or in-kind benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

“Initial two months” means the first two consecutive months for which assistance is paid. This may include a month for which a partial payment is made.

Whenever *“medical institution”* is used in this title, it shall mean a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility’s license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals
2. Extended care facilities (skilled nursing)
3. Intermediate care facilities
4. Mental health institutions
5. Hospital schools

“Needy specified relative” means a nonparental specified relative, listed in 441—subrule 41.22(3), who meets all the eligibility requirements to be included in the family investment program.

“Parent” means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

“Payment month” means the calendar month for which assistance is paid.

“Payment standard” means the total needs of a group as determined by adding need according to the schedule of basic needs, described in 441—subrule 41.28(2), to any allowable special needs, described in 441—subrule 41.28(3).

“*Promoting independence and self-sufficiency through employment, job opportunities, and basic skills (PROMISE JOBS) program*” means the department’s work and training program as described in 441—Chapter 93.

“*Prospective budgeting*” means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

“*Qualified alien*” means an alien:

1. Who is lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA);
2. Who is granted asylum in the United States under Section 208 of the INA;
3. Who is a refugee admitted to the United States under Section 207 of the INA;
4. Who is paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;
5. Whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA as amended to December 20, 2010;
6. Who is granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;
7. Who is admitted to the United States as an Amerasian as described in 8 U.S.C. Section 1612(b)(2)(A)(ii)(V);
8. Who is a Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7);
9. Who is a battered alien as described in 8 U.S.C. Section 1641(c); or
10. Who is certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.

“*Qualifying quarters*” means all of the qualifying quarters of coverage as defined under Title II of the Social Security Act that were worked by a parent of an alien while the alien was under the age of 18 and all of the qualifying quarters that were worked by a spouse of the alien during their marriage if the alien remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

“*Recipient*” means a person for whom assistance is paid, parent(s) living in the home with the eligible child(ren) and nonparental relative as defined in 441—subrule 41.22(3) who is receiving assistance for the child(ren). Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

“*Standard of need*” means the total needs of a group as determined by adding need according to the schedule of living costs, described in 441—subrule 41.28(2), to any allowable special needs, described in 441—subrule 41.28(3).

“*Stepparent*” means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child’s parent, by ceremonial or common-law marriage.

“*Unborn child*” shall include an unborn child during the entire term of the pregnancy.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5, and 239B.6.
[ARC 9439B, IAB 4/6/11, effective 6/1/11]

441—40.22(239B) Application. The application for the family investment program shall be submitted on the Financial Support Application, Form 470-0462 or Form 470-0462(S). The application shall be signed by the applicant, the applicant’s authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant’s behalf. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and attest to the information for the assistance unit.

40.22(1) Each individual wishing to do so shall have the opportunity to apply for assistance without delay. When the parent is in the home with the child and is not prevented from acting as payee by reason of physical or mental impairment, this parent shall make the application.

40.22(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the department, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.22(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the form be mailed, the department shall send the necessary forms in the next outgoing mail.

40.22(4) A new application is not required when adding a new person to the eligible group or when a parent or a stepparent becomes a member of the household.

40.22(5) Reinstatement.

a. Assistance shall be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished, or the family meets the conditions described at 441—subparagraph 41.30(3) “*f*”(9). EXCEPTION: The reinstatement provisions of subrule 40.22(5) do not apply when assistance is canceled due to the imposition of a subsequent limited benefit plan as described at 441—subrule 41.24(8), unless the limited benefit plan is stopped as described in 441—paragraph 41.24(8) “*g*” or “*h*.”

b. When assistance has been canceled for failure to provide requested information, assistance shall be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date all information required to establish eligibility is provided.

c. When assistance has been canceled for failure to return a completed review form pursuant to subrule 40.27(3), assistance shall be reinstated without a new application if the completed form is received by the department within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the Review/Recertification Eligibility Document is received.

d. When assistance has been canceled for failure to complete a required review interview, assistance shall be reinstated without a new application if the interview is completed and all necessary information to determine eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility is reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the interview is completed.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5 and 239B.6.

[ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—40.23(239B) Date of application. The date of application is the date an identifiable Financial Support Application, Form 470-0462 or Form 470-0462(S), is received by the department. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

40.23(1) The date of application is also the date an identifiable application is received by a designated worker who is in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center or other facility will forward the application to the department office that is responsible for the completion of the eligibility determination.

40.23(2) An identifiable application is an application containing a legible name and address that has been signed.

40.23(3) A new application is not required when adding a person to an existing eligible group. This person is considered to be included in the application that established the existing eligible group. However, in these instances, the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be the date of the report.

a. In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the date of application to add the person is the date the person indicated willingness to cooperate.

b. EXCEPTIONS:

(1) When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the date of application to add the person is the date the social security number or proof of application for a social security number is provided.

(2) When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.23(5) or 41.25(5) or rule 441—46.29(239B), the date of application to add the person is the first day after the period of ineligibility has ended.

(3) When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the date of application to add the person is the date the person signs a family investment agreement.

40.23(4) Grace period.

a. When an application has been denied for failure to provide requested information, if all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date all of the information is provided.

b. When an application has been denied for failure to attend an interview, if the interview is completed and all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date the interview is completed or the date all of the information is provided, whichever is later.

This rule is intended to implement Iowa Code section 239B.2.

[ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—40.24(239B) Procedure with application.

40.24(1) The decision with respect to eligibility shall be based primarily on information furnished by the applicant.

a. The applicant shall report no later than at the time of the interview any change as defined at 40.27(4) “e” that occurs after the application was signed. Any change that occurs after the interview shall be reported by the applicant within five days from the date the change occurred.

b. The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification requested or to request assistance and authorize the department to secure the requested information or verification from other sources shall serve as a basis for denial of assistance. Signing a general authorization for release of information to the department does not meet this responsibility.

(1) Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. The department shall extend the deadline when the applicant requests an extension because the applicant is making every effort to supply the information or verification but is unable to do so.

(2) “Supply” shall mean the requested information is received by the department by the specified due date. Any time taken beyond the required time frame shall be considered a delay on the part of the applicant.

c. When an individual is added to an existing eligible group, the five-day requirement for reporting changes shall be waived. These individuals and eligible groups shall be subject to the recipient’s ten-day reporting requirement as defined in 40.27(4).

40.24(2) The department or the designated worker as described in subrule 40.23(1) shall conduct a face-to-face or telephone interview with the applicant before approval of the application for assistance.

a. The worker shall assist the applicant, when requested, in providing information needed to determine eligibility and the amount of assistance.

b. The application process shall include a visit, or visits, to the home of the child and the person with whom the child will live during the time assistance is granted under the following circumstances:

(1) When it is the judgment of the worker or the supervisor that a home visit is required to clarify or verify information pertaining to the eligibility requirements; or

(2) When the applicant requests a home visit for the purpose of completing a pending application.

c. When adding an individual to an existing eligible group, the interview requirement may be waived.

40.24(3) Rescinded IAB 1/14/09, effective 2/1/09.

40.24(4) The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date the department enters all eligibility information into the department's computer system, except as described in subrule 40.24(3). The applicant shall become a recipient on the date all eligibility information is entered into the department's computer system and the computer system determines the applicant is eligible for aid.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5 and 239B.6.

[**ARC 7740B**, IAB 5/6/09, effective 6/10/09; **ARC 8500B**, IAB 2/10/10, effective 3/1/10]

441—40.25(239B) Time limit for decision. A determination of approval or denial shall be made as soon as possible, but no later than 30 days following the date of filing an application. A written notice of decision shall be issued to the applicant the next working day following a determination of eligibility or ineligibility. This time standard shall apply except in unusual circumstances, such as when the department and the applicant have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department. When eligibility is dependent upon the birth of a child, the time limit may be extended while awaiting the birth of the child. When it becomes evident that due to an error on the part of the department, eligibility will not be established within the 30-day limit, the application shall be approved pending a determination of eligibility.

This rule is intended to implement Iowa Code sections 239B.3, 239B.4, 239B.5 and 239B.6.

441—40.26(239B) Effective date of grant. New approvals shall be effective as of the date the applicant becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date of application. When an individual is added to an existing eligible group, the individual shall be added effective as of the date the individual becomes eligible for assistance, but in no case shall the effective date be earlier than seven days following the date the change is reported. When it is reported that a person is anticipated to enter the home, the effective date of assistance shall be no earlier than the date of entry or seven days following the date of report, whichever is later.

When the change is timely reported as described at subrule 40.27(4), a payment adjustment shall be made when indicated. When the individual's presence is not timely reported as described at subrule 40.27(4), excess assistance issued is subject to recovery.

In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the effective date of eligibility shall be seven days following the date the person indicated willingness to cooperate. However, in no instance shall the person be added until cooperation has actually occurred.

EXCEPTIONS: When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the effective date of eligibility shall be seven days following the date that the social security number or proof of application for a social security number is provided.

When adding a person who was previously excluded from the eligible group as described at 441—subrules 41.23(5), 41.25(5) and 46.28(2) and rule 441—46.29(239B), the effective date of eligibility shall be seven days following the date that the period of ineligibility ended.

When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the effective date of eligibility shall be seven days following the date the person signs a family investment agreement. In no case shall the effective date be within the six-month ineligibility period of a subsequent limited benefit plan as described at 441—paragraph 41.24(8) “a.”

This rule is intended to implement Iowa Code section 239B.3.

441—40.27(239B) Continuing eligibility.

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program. An interview may be conducted at the time of a review.

40.27(2) A redetermination of specific eligibility factors shall be made when:

a. The recipient reports a change in circumstances (for example, a change in income, as defined at rule 441—40.21(239B)), or

b. A change in the recipient’s circumstances comes to the attention of a staff member.

40.27(3) Information for semiannual reviews shall be submitted on Form 470-2881, 470-2881(M), 470-2881(S), or 470-2881(MS), Review/Recertification Eligibility Document (RRED).

a. The department shall supply the review form to the recipient as needed or upon request. The department shall pay the cost of postage to return the form.

(1) When the review form is issued in the department’s regular end-of-month mailing, the recipient shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department’s regular end-of-month mailing, the recipient shall return the completed form to the department by the seventh day after the date it is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

b. When the client has completed Form 470-0462 or Form 470-0462(S), Financial Support Application, for another purpose, this form may be used as the review document.

c. The review form shall be signed by the payee, the payee’s authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee’s behalf.

40.27(4) Responsibilities of recipients. For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The recipient shall cooperate by giving complete and accurate information needed to establish eligibility and the amount of the family investment program grant.

b. The recipient shall complete the required review form when requested by the department in accordance with subrule 40.27(3). Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated and accompanied by verification as required in 441—paragraphs 41.27(1) “i” and 41.27(2) “h.”

c. The recipient has the primary responsibility for providing information and verification needed to establish eligibility and the amount of the family investment program grant. The recipient shall supply, insofar as the recipient is able, information and verification needed within ten working days from the date a written request is mailed by the department to the recipient’s current mailing address or given to the recipient. The department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) “Supply” shall mean that the requested information or verification is received by the department by the specified due date.

(2) When the recipient is unable to furnish information or verification needed to establish eligibility and the amount of the family investment program grant, the recipient shall request assistance from the department.

(3) Failure to supply the information or verification requested or to request assistance and authorize the department to secure the requested information or verification from other sources shall serve as a basis for cancellation of assistance. Signing a general authorization for release of information to the department does not meet this responsibility.

d. The recipient or applicant shall cooperate with the department when the recipient's or applicant's case is selected by quality control for verification of eligibility. The recipient or applicant shall also cooperate with the front end investigations conducted by the department of inspections and appeals to determine whether information supplied to the department by the client is complete and correct regarding pertinent public assistance information unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect family investment program eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to cooperate shall serve as a basis for cancellation or denial of the family's assistance. Once denied or canceled for failure to cooperate, the family may reapply but shall not be considered for approval until cooperation occurs.

e. The recipient, or an individual being added to the existing eligible group, shall timely report any change in the following circumstances:

- (1) Beginning or ending income, including receipt of a nonrecurring lump sum.
- (2) Resources.
- (3) Members of the household.
- (4) School attendance of a child.
- (5) Mailing or living address.
- (6) Receipt of a social security number.

f. A report shall be considered timely when made within ten days from:

- (1) The receipt of resources or income or the date income ended.
- (2) The date the address changes.
- (3) The date the child is officially dropped from the school rolls.
- (4) The date a person enters or leaves the household.
- (5) The receipt of a social security number.

g. When a change is not timely reported, any excess assistance paid shall be subject to recovery.

40.27(5) After assistance has been approved, eligibility for continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility or benefits reported during a month shall be effective the first day of the next calendar month except as follows:

a. When the recipient reports a new person to be added to the eligible group, and that person meets eligibility requirements, a payment adjustment shall be made for the month of report, subject to the effective date of grant limitations prescribed in 441—40.26(239B).

b. When cancellation of assistance occurs later because issuance of a timely notice, as required by 441—7.7(17A), requires that the action be delayed until the first day of the second calendar month, any overpayment received in the first calendar month shall be recouped.

c. When the recipient reports a change in income or circumstances timely, as defined in 40.24(1) or 40.27(4), the department shall determine prospective eligibility and the grant amount for the following month based on the change.

(1) A payment adjustment shall be made when indicated.

(2) Recoupment shall be made for any overpayment, with one exception. When a change in income is timely reported by a recipient and timely acted upon by the department, but the timely notice, as required by 441—7.7(17A), requires the action be delayed until the second calendar month following the month of change, and eligibility continues, recoupment shall not be made.

d. When an individual included in the eligible group becomes ineligible, that individual's needs shall be removed prospectively effective the first day of the next calendar month. When the action must be delayed due to administrative requirements, a payment adjustment or recoupment shall be made when appropriate.

e. When a sanction under 441—paragraph 41.22(6) "f" is implemented, the change shall be effective:

- (1) The first day of the next calendar month after the change has occurred when the income maintenance unit determines noncooperation; or
- (2) After the income maintenance unit receives notification from the child support recovery unit when the child support recovery unit determines noncooperation.

f. When a sanction under 441—paragraph 41.22(6) “*f*” is removed, the change shall be effective the first day of the next calendar month after the recipient has expressed willingness to cooperate, as described in 441—paragraph 41.22(6) “*f*.” However, action to remove the sanction shall be delayed until:

- (1) Cooperation has actually occurred; or
- (2) The income maintenance unit has received notification from the child support recovery unit that the client has cooperated.

g. A different effective date shall be applied when specifically indicated in family investment program rules, such as in 441—subrule 41.25(5) and 441—subparagraph 41.27(9) “*c*”(2).

This rule is intended to implement Iowa Code sections 239B.2, 239B.3, 239B.5, 239B.6 and 239B.18.

[ARC 7740B, IAB 5/6/09, effective 6/10/09; ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 0148C, IAB 6/13/12, effective 8/1/12; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—40.28(239B) Referral for investigation. The department may refer questionable cases to the department of inspections and appeals for further investigation. Referrals shall be made using Form 470-2998, Referral for Front End Investigation.

This rule is intended to implement Iowa Code section 239B.5.

441—40.29(239B) Conversion to the X-PERT system. Rescinded IAB 10/4/00, effective 12/1/00.

These rules are intended to implement Iowa Code chapter 239B.

[Filed June 23, 1955; amended August 30, 1972, June 3, 1975, June 27, 1975]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed 8/18/77, Notice 6/15/77—published 9/7/77, effective 10/12/77]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 11/1/78]

[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

[Filed emergency after Notice 9/6/79, Notice 7/11/79—published 10/3/79, effective 10/1/79]

[Filed 10/24/79, Notice 8/22/79—published 11/14/79, effective 1/1/80]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed 12/19/80, Notice 10/29/80—published 1/7/81, effective 2/11/81]

[Filed without Notice 3/24/81—published 4/15/81, effective 6/1/81]

[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]

[Filed 6/30/81, Notice 4/29/81—published 7/22/81, effective 9/1/81]

[Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]

[Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]

[Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]

[Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]

[Filed 7/1/82, Notice 4/28/82—published 7/21/82, effective 9/1/82]

[Filed 9/1/83, Notice 6/22/83—published 9/28/83, effective 11/2/83]

[Filed emergency 12/16/83—published 1/4/84, effective 1/1/84]

[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]

[Filed 5/4/84, Notice 2/29/84—published 5/23/84, effective 7/1/84]

[Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]

[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]

[Filed 9/28/84, Notice 8/15/84—published 10/24/84, effective 12/1/84]

[Filed 12/11/84, Notice 10/10/84—published 1/2/85, effective 3/1/85]

[Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]

[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]

[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]

[Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]

[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]

[Filed emergency 5/28/86 after Notice 4/9/86—published 6/18/86, effective 6/1/86]

[Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]

[Filed 9/3/86, Notice 7/2/86—published 9/24/86, effective 11/1/86]

- [Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
- [Filed 11/14/86, Notice 10/8/86—published 12/3/86, effective 2/1/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
- [Filed 2/17/88, Notice 12/30/87—published 3/9/88, effective 6/1/88]
- [Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
- [Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
- [Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
- [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed without Notice 9/18/91—published 10/16/91, effective 11/21/91]
- [Filed emergency 10/10/91—published 10/30/91, effective 11/21/91]
- [Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
- [Filed 1/29/92, Notice 10/16/91—published 2/19/92, effective 3/25/92]
- [Filed emergency 6/11/92 after Notice 4/15/92—published 7/8/92, effective 7/1/92]
- [Filed 7/17/92, Notice 6/10/92—published 8/5/92, effective 10/1/92]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
- [Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
- [Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
- [Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
- [Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
- [Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 9/1/98]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
- [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
- [Filed 8/11/99, Notice 6/16/99—published 9/8/99, effective 11/1/99]
- [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 3/1/00]
- [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
- [Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed emergency 9/12/02 after Notice 7/24/02—published 10/2/02, effective 10/1/02]
- [Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]
- [Filed 7/1/04, Notice 1/21/04—published 7/21/04, effective 9/1/04]
- [Filed 9/23/04, Notice 7/7/04—published 10/13/04, effective 11/17/04]
- [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
- [Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
- [Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
- [Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
- [Filed 12/15/08, Notice 10/22/08—published 1/14/09, effective 3/1/09]
- [Filed ARC 7740B (Notice ARC 7590B, IAB 2/25/09), IAB 5/6/09, effective 6/10/09]
- [Filed Emergency After Notice ARC 8500B (Notice ARC 8272B, IAB 11/4/09), IAB 2/10/10, effective 3/1/10]
- [Filed ARC 9439B (Notice ARC 9309B, IAB 12/29/10), IAB 4/6/11, effective 6/1/11]
- [Filed ARC 0148C (Notice ARC 0048C, IAB 3/21/12), IAB 6/13/12, effective 8/1/12]
- [Filed ARC 1478C (Notice ARC 1385C, IAB 3/19/14), IAB 6/11/14, effective 8/1/14]

CHAPTER 41
GRANTING ASSISTANCE
[Prior to 7/1/83, Social Services[770] Ch 41]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—
CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—41.1 to 41.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, Human Services(441—41.1 to 41.9)]

441—41.21(239B) Eligibility factors specific to child.

41.21(1) Age. The family investment program shall be available to a needy child under the age of 18 years without regard to school attendance.

A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month. The family investment program shall also be available to a needy child of 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, as defined in paragraph 41.24(2) "e," and who is reasonably expected to complete the program before reaching the age of 19.

41.21(2) Rescinded, effective June 1, 1988.

41.21(3) Residing with relative. The child shall be living in the home of one of the relatives specified in subrule 41.22(3). When an unwed mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

41.21(4) Rescinded, effective July 1, 1980.

41.21(5) Deprivation of parental care and support. Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code sections 239B.1, 239B.2 and 239B.5.

441—41.22(239B) Eligibility factors specific to payee.

41.22(1) Reserved.

41.22(2) Rescinded, effective June 1, 1988.

41.22(3) Specified relationship.

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father—adoptive father.

Mother—adoptive mother.

Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

Grandmother—grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

Great-grandfather—great-great-grandfather.

Great-grandmother—great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

Uncle—aunt, of whole or half blood.

Uncle-in-law—aunt-in-law.

Great uncle—great-great-uncle.

Great aunt—great-great-aunt.

First cousins—nephews—nieces.

Second cousins, meaning the son or daughter of one's parent's first cousin.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

c. The family investment program is available to a child of unmarried parents the same as to a child of married parents when all eligibility factors are met.

d. The presence of an able-bodied stepparent in the home shall not disqualify a child for assistance, provided that other eligibility factors are met.

41.22(4) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity.

a. When necessary to establish eligibility, the income maintenance unit shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family investment program family or other sources of information indicate that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the income maintenance unit shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

41.22(5) *Referral to child support recovery unit.* The income maintenance unit shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

a. A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. "Prompt notice" means within two working days of the date assistance is approved.

41.22(6) *Cooperation in obtaining support.* Each applicant for or recipient of the family investment program shall cooperate with the department in establishing paternity and securing support for persons whose needs are included in the assistance grant, except when good cause as defined in 41.22(8) for refusal to cooperate is established.

a. The applicant or recipient shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom aid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed.

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed.

(4) Rescinded IAB 12/3/97, effective 2/1/98.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the office of the income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

(4) Paying to the department any cash support payments for a member of the eligible group, except as described at 41.27(7)“p” and “q,” received by a recipient after the date of decision as defined in 441—subrule 40.24(4).

(5) Providing the name of the absent parent and additional necessary information.

c. The applicant or recipient shall cooperate with the income maintenance unit in supplying information with respect to the absent parent, the receipt of support, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity. This includes completing and signing documents determined to be necessary by the state’s attorney for any relevant judicial or administrative process.

e. In the circumstance as described at paragraph “b,” subparagraph (4), the income maintenance unit shall make the determination of whether or not the applicant or recipient has cooperated. In all other instances, the child support recovery unit shall make the determination of whether the applicant or recipient has cooperated. The child support recovery unit delegates the income maintenance unit to make this determination for applicants.

f. Failure to cooperate shall result in a sanction to the family. The sanction shall be a deduction of 25 percent from the net cash assistance grant amount payable to the family before any deduction for recoupment of a prior overpayment.

(1) When the income maintenance unit determines noncooperation, the sanction shall be implemented after the noncooperation has occurred. The sanction shall remain in effect until the client has expressed willingness to cooperate. However, any action to remove the sanction shall be delayed until cooperation has occurred.

(2) When the child support recovery unit (CSRU) makes the determination, the sanction shall be implemented upon notification from CSRU to the income maintenance unit that the client has failed to cooperate. The sanction shall remain in effect until the client has expressed to either income maintenance or CSRU staff willingness to cooperate. However, any action to remove the sanction shall be delayed until income maintenance is notified by CSRU that the client has cooperated.

41.22(7) Assignment of support payments. Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person that the applicant or recipient may have. The assignment of support payments shall include rights to support in the applicant’s or recipient’s own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance.

a. The assignment of support payments shall include rights to all support payments that accrue during the period of assistance but shall not exceed the total amount of assistance received.

b. An assignment is effective the same date all eligibility information is entered into the department’s computer system and is effective for the entire period for which assistance is paid.

41.22(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The income maintenance unit shall determine that cooperation is against the child’s best interest when the applicant’s or recipient’s cooperation in establishing paternity or securing support is reasonably anticipated to result in:

- (1) Physical harm to the child for whom support is to be sought; or
- (2) Emotional harm to the child for whom support is to be sought; or
- (3) Physical harm to the parent or caretaker relative with whom the child is living which reduces the person’s capacity to care for the child adequately; or
- (4) Emotional harm to the parent or caretaker relative with whom the child is living of a nature or degree that it reduces the person’s capacity to care for the child adequately.

b. The income maintenance unit shall determine that cooperation is against the child’s best interest when at least one of the following circumstances exists, and the income maintenance unit believes that

because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

- (1) The child for whom support is sought was conceived as a result of incest or forcible rape.
- (2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (3) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the caretaker relative, the following shall be considered:

- (1) The present emotional state of the individual subject to emotional harm.
- (2) The emotional health history of the individual subject to emotional harm.
- (3) Intensity and probable duration of the emotional impairment.
- (4) The degree of cooperation required.
- (5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

41.22(9) Claiming good cause. Each applicant for or recipient of the family investment program who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. Before requiring cooperation, the income maintenance unit shall notify the applicant or recipient using Form 470-0169, Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination.

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

- (1) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity and securing support.
- (2) Advise the applicant or recipient that by law cooperation in establishing paternity and securing support is a condition of eligibility for the family investment program.
- (3) Advise the applicant or recipient of the sanctions provided for refusal to cooperate without good cause.
- (4) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or recipient will be excused from the cooperation requirement.

(5) Advise the applicant or recipient that upon request, or following a claim of good cause, the income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or recipient makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. To claim good cause, the applicant or recipient shall sign and date Form 470-0170 and return it to the income maintenance unit. This form:

- (1) Indicates that the applicant or recipient must provide corroborative evidence of a good cause circumstance and must, when requested, furnish sufficient information to permit the income maintenance unit to investigate the circumstances.
- (2) Informs the applicant or recipient that, upon request, the income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.
- (3) Informs the applicant or recipient that on the basis of the corroborative evidence supplied and the department's investigation when necessary, the income maintenance unit will determine whether cooperation would be against the best interest of the child for whom support would be sought.
- (4) Lists the circumstances under which cooperation may be determined to be against the best interests of the child.

(5) Informs the applicant or recipient that the child support recovery unit may review the income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or recipient that the child support recovery unit may attempt to establish paternity and collect support in those cases where the income maintenance unit determines that this can be done without risk to the applicant or recipient if done without the applicant's or recipient's participation.

d. The applicant or recipient who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the income maintenance unit to determine that good cause does not exist. The applicant or recipient shall:

(1) Specify the circumstances that the applicant or recipient believes provide sufficient good cause for not cooperating.

(2) Corroborate the good cause circumstances.

(3) When requested, provide sufficient information to permit an investigation.

41.22(10) *Determination of good cause.* The income maintenance unit shall determine whether good cause exists for each applicant for or recipient of the family investment program who claims to have good cause.

a. The applicant or recipient shall be notified by the income maintenance unit of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the income maintenance unit's findings and basis for determination.

(3) Be entered in the family investment program case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The income maintenance unit may exceed this time standard only when:

(1) The case record documents that the income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) The case record documents that the claimant did not provide corroborative evidence within the time period set forth in 41.22(11).

c. When the income maintenance unit determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in the imposition of sanctions.

d. The income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after the unit has examined the evidence and found that it actually verifies the good cause claim.

e. Before making a final determination of good cause for refusing to cooperate, the income maintenance unit shall:

(1) Afford the child support recovery unit the opportunity to review and comment on the findings and basis for the proposed determination, and

(2) Consider any recommendation from the child support recovery unit.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or recipient's appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or recipient has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The income maintenance unit shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements pertaining to cooperation in establishing paternity and securing support.

41.22(11) Proof of good cause. The applicant or recipient who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the income maintenance unit determines that the applicant or recipient requires additional time because of the difficulty in obtaining the corroborative evidence, the income maintenance unit shall allow a reasonable additional period upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence.

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative.

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the income maintenance unit shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed, and

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing corroborative evidence, the income maintenance unit shall:

(1) Advise the applicant or recipient how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or recipient's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The income maintenance unit will investigate the good cause claim when the unit believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation which is conducted satisfies the income maintenance unit that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by the worker's immediate supervisor and the findings will be recorded in the case record.

e. The income maintenance unit may further verify the good cause claim when the applicant's or recipient's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the income maintenance unit determines that it is necessary, the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the income maintenance unit will:

(1) Contact the absent parent or putative father from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.

(2) Prior to making the necessary contact, notify the applicant or recipient so the applicant or recipient may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

41.22(12) *Enforcement without caretaker's cooperation.* When the income maintenance unit makes a determination that good cause exists, the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or caretaker relative when the enforcement or collection activities do not involve the participation of the child or caretaker.

a. The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination, and the income maintenance unit shall consider any recommendation from the child support recovery unit.

b. The determination shall:

- (1) Be in writing,
- (2) Contain the income maintenance unit's findings and basis for determination, and
- (3) Be entered into the family investment program case record.

c. When the income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, the income maintenance unit will notify the applicant or recipient to enable the individual to withdraw the application for assistance or have the case closed.

41.22(13) *Furnishing of social security number.* As a condition of eligibility each applicant for or recipient of and all members of the eligible group must furnish a social security account number or proof of application for a number if it has not been issued or is not known and provide the number upon its receipt. The requirement shall not apply to a payee who is not a member of the eligible group.

a. Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicant or recipient has complied with the requirements of 41.22(13).

b. When the mother of the newborn child is a current recipient, the mother shall have until the second month following the mother's discharge from the hospital to apply for a social security account number for the child.

c. When the applicant is a battered alien, as described at 41.23(4), the applicant shall have until the month following the month the person receives employment authorization from the Immigration and Naturalization Service to apply for a social security account number.

41.22(14) *Department of workforce development registration and referral.* Rescinded IAB 11/1/00, effective 1/1/01.

41.22(15) *Requiring minor parents to live with parent or legal guardian.* A minor parent and the dependent child in the minor parent's care must live in the home of a parent or legal guardian of the minor parent in order to receive family investment program benefits unless good cause for not living with the parent or legal guardian is established.

a. "Living in the home" includes living in the same apartment, same half of a duplex, same condominium or same row house as the adult parent or legal guardian. It also includes living in an apartment which is located in the home of the adult parent or legal guardian.

b. For applicants, determination of whether the minor parent and child are living with a parent or legal guardian or have good cause must be made as of the date of the first application interview as described at 441—subrule 40.24(2).

(1) If, as of the date of this interview, the minor parent and child are living with a parent or legal guardian or are determined to have good cause, the FIP application for the minor parent and child shall be approved as early as seven days from receipt of the application provided they are otherwise eligible.

(2) If, as of the date of this interview, the minor parent and child are not living with a parent or legal guardian and do not have good cause, the FIP application for the minor parent and child shall be denied.

c. For recipients, when changes occur, continuing eligibility shall be redetermined according to 441—subrules 40.27(4) and 40.27(5).

d. A minor parent determined to have good cause for not living with a parent or legal guardian must attend FaDSS or other family development as required in 441—subrule 93.4(4).

41.22(16) *Good cause for not living in the home of a parent or legal guardian.* Good cause shall exist when at least one of the following conditions applies:

a. The parents or legal guardian of the minor parent is deceased, missing or living in another state.
b. The physical or emotional health or safety of the minor parent or child would be jeopardized if the minor parent is required to live with the parent or legal guardian.

(1) Physical or emotional harm shall be of a serious nature in order to justify a finding of good cause.

(2) Physical or emotional harm shall include situations of documented abuse or incest.

(3) When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the minor parent or child, the following shall be considered:

1. The present emotional state of the individual subject to emotional harm.

2. The emotional health history of the individual subject to emotional harm.

3. Intensity and probable duration of the emotional impairment.

c. The minor parent is in a foster care supervised apartment living arrangement.

d. The minor parent is participating in the job corps solo parent program.

e. The parents or legal guardian refuses to allow the minor parent and child to return home and the minor parent is living with a specified relative, aged 21 or over, on the day of interview, and the caretaker is the applicant or payee.

f. The minor parent and child live in a maternity home or other licensed adult-supervised supportive living arrangement as defined by the department of human services.

g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of economic assistance, or the administrator's designee, for determination of good cause.

41.22(17) *Claiming good cause for not living in the home of a parent or legal guardian.* Each applicant or recipient who is not living with a parent or legal guardian shall have the opportunity to claim good cause for not living with a parent or legal guardian.

41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.* The department shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the department of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the department's findings and basis for determination.

(3) Be entered in the family investment program case record.

b. When the department determines that good cause does not exist:

(1) The applicant or recipient shall be so notified.

(2) The application shall be denied or family investment program assistance canceled.

(3) Rescinded IAB 8/31/05, effective 11/1/05.

c. The department shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements.

41.22(19) *Proof of good cause for not living in the home of a parent or legal guardian.* The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4)“c.”

a. A good cause claim may be corroborated by one or more of the following types of evidence:

(1) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the parent or legal guardian might inflict physical or emotional harm on the minor parent or child.

(2) Medical records that indicate the emotional health history and present emotional health status of the minor parent or child; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the minor parent or child.

(3) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim. Written statements from the client's friends or relatives are not sufficient alone to grant good cause based on physical or emotional harm, but may be used to support other evidence.

(4) Notarized statements from the parents or legal guardian or other reliable evidence to verify that the parents or legal guardian refuse to allow the minor parent and child to return home.

(5) Court, criminal, child protective services, social services or other records which verify that the parents or legal guardian of the minor parent is deceased, missing or living in another state, or that the minor parent is in a foster care supervised apartment living arrangement, the job corps solo parent program, maternity home or other licensed adult-supervised supportive living arrangement.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the department wishes to request additional corroborative evidence which is needed to permit a good cause determination, the department shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed.

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing evidence, the department shall:

(1) Advise the applicant or recipient how to obtain the necessary documents.

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

This rule is intended to implement Iowa Code chapter 239B.

[ARC 8004B, IAB 7/29/09, effective 10/1/09]

441—41.23(239B) Home, residence, citizenship, and alienage.

41.23(1) Iowa residence.

a. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the caretaker is a resident.

b. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

41.23(2) Suitability of home. The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

41.23(3) Absence from the home.

a. An individual who is absent from the home shall not be included in the assistance unit, except as described in paragraph "b."

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home, notwithstanding the provisions of subrule 41.22(5). "Uniformed service" means the Army, Navy, Air Force, Marine Corps,

Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group, if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year will result in the individual's needs being removed from the grant.

(2) An individual is out of the home to secure education or training, as defined for children in 41.24(2) "e" and for adults in rule 441—93.8(239B), first sentence, as long as the caretaker relative retains supervision of the child.

(3) An individual is out of the home for reasons other than reasons in subparagraphs (1) and (2) and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual's needs being removed from the grant.

41.23(4) *Battered aliens.* A person who meets the conditions of eligibility under Iowa Code section 239B.2 and who meets either of the following requirements shall be eligible for participation in the family investment program:

a. The person is a conditional resident alien who was battered or subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, as described in 8 CFR Section 216.5(a)(3).

b. The person was battered or subjected to extreme cruelty, or the person's child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident, and the person's petition has been approved or a petition is pending that sets forth a prima facie case that the person has noncitizen status under any of the following categories:

(1) Status as a spouse or child of a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(1)(A).

(2) Status as a spouse or child who was battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, Section 204(a)(iii), as codified in 8 United States Code Section 1154(a)(1)(A)(iii).

(3) Classification as a person lawfully admitted for permanent residence under the federal Immigration and Nationality Act.

(4) Suspension of deportation and adjustment of status under the federal Immigration and Nationality Act, Section 244(a), as in effect before the date of enactment of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(5) Cancellation of removal or adjustment of status under the federal Immigration and Nationality Act, Section 240A, as codified in 8 United States Code Section 1229b.

(6) Status as an asylee, if asylum is pending, under the federal Immigration and Nationality Act, Section 208, as codified in 8 United States Code Section 1158.

41.23(5) *Citizenship and alienage.*

a. Eligible status. A family investment program assistance grant may include the needs of a citizen or national of the United States or a qualified alien as defined at rule 441—40.21(239B).

(1) A person who is a qualified alien as defined at rule 441—40.21(239B) is not eligible for family investment program assistance for a five-year period beginning on the date of the person's entry into the United States with a qualified alien status.

(2) EXCEPTIONS: The five-year prohibition from family investment program assistance does not apply to:

1. A qualified alien residing in the United States before August 22, 1996.

2. A battered alien as described at subrule 41.23(4).

3. A qualified alien veteran who has an honorable discharge that is not due to alienage.

4. A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.

5. A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in numbered paragraph "3" or "4," including a surviving spouse who has not remarried.

6. A refugee admitted under Section 207 of the Immigration and Nationality Act (INA).
7. An alien granted asylum under Section 208 of the INA.
8. An alien admitted as an Amerasian as described in 8 U.S.C. Section 1612(a)(2)(A)(ii)(V).
9. A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).
10. An alien whose deportation is withheld under Section 243(h) or Section 241(b)(3) of the INA.
11. An alien certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.
12. An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. Attestation of status. As a condition of eligibility, an attestation of citizenship or alien status shall be made for all applicants and recipients on Form 470-0462 or 470-0462(S), Financial Support Application, or Form 470-2549, Statement of Citizenship Status. Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, may be used to attest to the citizenship of dependent children who enter a recipient household. Failure to sign a form attesting to citizenship when required to do so creates ineligibility for the entire eligible group. The attestation may be signed by:

- (1) The applicant;
- (2) Someone acting responsibly on the applicant's or recipient's behalf if the applicant or recipient is incompetent or incapacitated; or
- (3) Any adult member of the assistance unit, when eligibility is determined on a family or household basis.

This rule is intended to implement Iowa Code sections 239B.2 and 239B.2B.
 [ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program. All persons in a family investment program (FIP) household shall be referred to the PROMISE JOBS program and shall enter into a family investment agreement (FIA) as a condition of receiving FIP, unless exempt from referral, except as described at subrule 41.24(2).

41.24(1) FIA-responsible persons. The following persons are FIA-responsible unless the department determines the person is exempt:

- a.* All persons whose needs are included in a grant under the FIP program.
- b.* Any parent living in the home of a child receiving a grant.
- c.* All FIP applicants unless the department determines that the applicant is exempt or does not meet other FIP eligibility requirements.
- d.* Applicants who have chosen and are in an active limited benefit plan (LBP). FIA-responsible applicants in an active limited benefit plan shall complete significant contact with or action in regard to PROMISE JOBS as described at paragraphs 41.24(8) "d" and "e" for FIP eligibility to be considered. For two-parent households, both parents must participate as previously stated except when one parent is exempt. Exceptions:

- (1) The applicant has become exempt from PROMISE JOBS.
- (2) The applicant is in a subsequent limited benefit plan and it is prior to the last day of the six-month period of ineligibility.

41.24(2) Exemptions. The following persons are exempt from referral:

- a.* and *b.* Rescinded IAB 12/3/97, effective 2/1/98.
- c.* A person who is under the age of 16 and is not a parent.
- d.* A person found eligible for supplemental security income (SSI) benefits based on disability or blindness.
- e.* A person who is aged 16 to 19, is not a parent, and attends an elementary, secondary or equivalent level of vocational or technical school full-time. For persons who lose exempt status for not

attending school, once the person has signed a family investment agreement, the person shall remain referred to PROMISE JOBS and subject to the terms of the agreement.

(1) A person shall be considered to be attending school full-time when enrolled or accepted in an elementary school, a secondary school, or the equivalent level of vocational or technical school or training leading to a certificate or diploma, and the school certifies the person's attendance as full-time. Enrollment in a correspondence school that gives instruction courses by mail is not an allowable program of study.

(2) A person shall also be considered to be in regular attendance in months when the person is not attending because of an official school or training program vacation, an illness, a convalescence, or a family emergency.

(3) A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

f. A person who is not a United States citizen and is not a qualified alien as defined in rule 441—40.21(239B).

41.24(3) Parents aged 19 and under.

a. Unless exempt as described at subrule 41.24(2), parents aged 18 or 19 are referred to PROMISE JOBS as follows:

(1) A parent aged 18 or 19 who has not successfully completed a high school education (or its equivalent) shall be required to participate in educational activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in other PROMISE JOBS options if the person fails to make good progress in completing educational activities or if it is determined that participation in educational activities is inappropriate for the parent.

(3) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

b. Unless exempt as described at subrule 41.24(2), parents aged 17 or younger are referred to PROMISE JOBS as follows:

(1) A parent aged 17 or younger who has not successfully completed a high school education or its equivalent shall be required to participate in high school completion activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

41.24(4) Method of referral. The department shall refer each FIA-responsible person as defined at subrule 41.24(1) to PROMISE JOBS to sign a family investment agreement.

a. FIA-responsible applicants. During the application interview, the department shall notify the applicant of the requirement to sign a family investment agreement as a condition of FIP eligibility. The department shall refer the applicant by scheduling the applicant for an appointment with the PROMISE JOBS provider agency to develop the family investment agreement.

(1) The appointment shall be on the earliest available date but no later than ten calendar days from the date of referral unless the applicant requests an appointment on a day that is beyond ten calendar days. The PROMISE JOBS provider agency shall make sufficient appointment times available to allow the applicant to be scheduled within this time frame.

(2) The applicant shall be notified verbally and in writing of the scheduled appointment. If the notice of a scheduled appointment is mailed to the applicant, the department shall allow at least five working days from the date the notice is mailed for the applicant to appear for the scheduled appointment. The department may allow less than five working days if the applicant is verbally notified and agrees to the appointment.

(3) If a parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance for the entire family.

(4) If a minor parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance for the minor parent and any child of the minor parent.

(5) If a referred person who is not a parent fails to appear for an appointment without rescheduling or fails to sign a family investment agreement, the department shall deny FIP assistance only for that person.

b. Hardship applicants. While the eligibility decision is pending, the department shall refer applicants who must qualify for a hardship exemption before approval of FIP to PROMISE JOBS to sign a family investment agreement as described in paragraph 41.24(4)“a” and shall treat applicants in accordance with subrule 41.30(3).

c. Applicants in a limited benefit plan. The department shall refer FIA-responsible applicants to PROMISE JOBS as described in paragraph 41.24(4)“a” and inform the applicant of the actions needed to reconsider and end the limited benefit plan as described at subrule 41.24(8). Failure to appear for the appointment without rescheduling or failure to sign a family investment agreement results in denial of the FIP application.

d. FIP participants who become FIA-responsible. When a person receiving FIP is no longer exempt, the department shall send the FIP participant a notice. The notice shall contain information about the requirement to sign a family investment agreement and shall instruct the FIP participant to contact PROMISE JOBS within ten calendar days to schedule an appointment with PROMISE JOBS to develop a family investment agreement. If the participant fails to schedule or attend the appointment or fails to sign a family investment agreement, PROMISE JOBS will send a clear written reminder. After one written reminder as described at 441—paragraph 93.3(3)“b,” the participant shall enter into a limited benefit plan as described at paragraph 41.24(8)“c.”

41.24(5) Changes in status and redetermination of exempt status. Any exempt person shall report any change affecting the exempt status to the department within ten days of the change. The department shall reevaluate exempt persons when changes in status occur and at the time of six-month or annual review. The participant and the PROMISE JOBS unit shall be notified of any change in a participant’s exempt status.

41.24(6) Volunteers. Rescinded IAB 7/21/04, effective 9/1/04.

41.24(7) Referral to vocational rehabilitation. The department shall make the department of education, division of vocational rehabilitation services, aware of any person who is referred to PROMISE JOBS and who has a medically determined physical or mental disability and a substantial employment limitation resulting from the disability. However, acceptance of vocational rehabilitation services by the client is optional.

41.24(8) The limited benefit plan (LBP). When a participant responsible for signing and meeting the terms of a family investment agreement as described at rule 441—93.4(239B) chooses not to sign or fulfill the terms of the agreement, the FIP assistance unit or the individual participant shall enter into a limited benefit plan. A limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to the participant as defined at 441—subrule 7.7(1). Once the limited benefit plan is imposed, FIP eligibility no longer exists as of the first of the month after the month in which timely and adequate notice is given to the participant. Upon the issuance of the notice to impose a limited benefit plan, the person who chose the limited benefit plan can reconsider and end the limited benefit plan, but only as described at paragraphs 41.24(8)“d” and “e.”

a. A limited benefit plan shall either be a first limited benefit plan or a subsequent limited benefit plan. From the effective date of a first limited benefit plan, the FIP eligible group or individual participant shall not be eligible until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph 41.24(8)“d.” If a subsequent limited benefit plan is chosen by the same participant, a six-month period of ineligibility applies to the FIP eligible group or individual participant and ineligibility continues after the six-month period is over until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph 41.24(8)“e.” A limited benefit plan imposed in error as described in paragraph 41.24(8)“g” shall not be considered a limited benefit plan and shall not count when determining whether a household is subject to a subsequent limited benefit plan.

b. The limited benefit plan shall be applied to participants responsible for the family investment agreement and other members of the participant's family as follows:

(1) When the participant responsible for the family investment agreement is a parent, the limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1).

(2) When the participant choosing a limited benefit plan is a needy specified relative or a dependent child's stepparent who is in the FIP eligible group because of incapacity, the limited benefit plan shall apply only to the individual participant choosing the plan. EXCEPTION: The limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1) when a needy specified relative who assumes the role of parent was responsible for the family investment agreement and chose a limited benefit plan effective October 1, 2005, or earlier.

(3) When the FIP eligible group includes a minor parent living with the minor parent's adult parent or needy specified relative who receives FIP benefits and both the minor parent and the adult parent or needy specified relative are responsible for developing a family investment agreement, each parent or needy specified relative is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

1. When the adult parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for FIP benefits as a minor parent living with self-supporting parents or as a minor parent living independently and continue in the family investment agreement process.

2. When the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

3. When the minor parent is the only eligible child in the adult parent's or needy specified relative's home and the minor parent chooses the limited benefit plan, the adult parent's or needy specified relative's FIP eligibility ceases in accordance with subrule 41.28(1). The adult parent or needy specified relative shall become ineligible beginning with the effective date of the minor parent's limited benefit plan.

4. When the needy specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply as described at subparagraph 41.24(8) "b"(2).

(4) When the FIP eligible group includes children who are FIA-responsible, the children shall not have a separate family investment agreement but shall be asked to sign the eligible group's family investment agreement and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

1. When the parent or needy specified relative responsible for a family investment agreement meets those responsibilities but a child who is FIA-responsible chooses an individual limited benefit plan, the limited benefit plan shall apply only to the individual child choosing the plan.

2. When the child who chooses a limited benefit plan under numbered paragraph 41.24(8) "b"(4) "1" is the only child in the eligible group, the parents' or needy specified relative's eligibility ceases in accordance with subrule 41.28(1). The parents or needy specified relative shall become ineligible beginning with the effective date of the child's limited benefit plan.

(5) When the FIP eligible group includes parents or needy specified relatives who are exempt from PROMISE JOBS participation and children who are FIA-responsible, the children are responsible for completing a family investment agreement. If a child who is FIA-responsible chooses the limited benefit plan, the limited benefit plan shall be applied in the manner described in subparagraph 41.24(8) "b"(4).

(6) When both parents of a FIP child are in the home, a limited benefit plan shall be applied as follows:

1. When only one parent of a child in the eligible group is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan applies to the entire family and cannot be ended by the voluntary participation in a family investment agreement by the exempt parent.

2. When both parents of a child in the eligible group are responsible for a family investment agreement, both are expected to sign the agreement. If either parent chooses the limited benefit plan,

the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement.

3. When the parents from a two-parent family in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

4. A subsequent limited benefit plan applies when either parent in a two-parent family previously chose a limited benefit plan.

c. A participant shall be considered to have chosen a limited benefit plan under any of the following circumstances:

(1) A participant who loses exempt status and is referred to PROMISE JOBS as described at paragraph 41.24(4)“*d*” and who does not schedule or attend an appointment for orientation and development of a family investment agreement with PROMISE JOBS after PROMISE JOBS sends one clear written reminder as described at 441—paragraph 93.3(3)“*b*” shall enter into the limited benefit plan.

(2) A participant who chooses not to sign the family investment agreement shall enter into the limited benefit plan. For an applicant, signing a family investment agreement is a FIP eligibility requirement. If an applicant chooses not to sign the agreement, the limited benefit plan process is not applicable.

(3) A participant who signs a family investment agreement but does not carry out the family investment agreement responsibilities shall enter into a limited benefit plan whether the person signed the agreement as a FIP applicant or as a FIP participant. This includes a participant who fails to respond to the PROMISE JOBS worker’s request to renegotiate the family investment agreement when the participant has not attained self-sufficiency by the date established in the family investment agreement. A limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the family investment agreement.

d. Reconsideration of a first limited benefit plan. A person who chooses a first limited benefit plan may reconsider at any time from the date timely and adequate notice is issued establishing the limited benefit plan. To reconsider and end the limited benefit plan, the person must communicate the desire to engage in PROMISE JOBS activities to the department or appropriate PROMISE JOBS office and develop and sign the family investment agreement.

(1) Since a first limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued, the person who chose the limited benefit plan cannot end it by complying with the issue that resulted in its imposition. To end the limited benefit plan, the person must also sign a family investment agreement, even if the person had signed an agreement before choosing the limited benefit plan.

(2) FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later. FIP benefits may be reinstated in accordance with 441—subrule 40.22(5) when the family investment agreement is signed before the effective date of a first limited benefit plan.

e. Reconsideration of a subsequent limited benefit plan. A person who chooses a subsequent limited benefit plan may reconsider that choice at any time following the required six-month period of ineligibility.

(1) A subsequent limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to establish the limited benefit plan. Therefore, once timely and adequate notice is issued, the person who chose the limited benefit plan cannot end it by complying with the issue that resulted in its imposition.

(2) FIP eligibility no longer exists as of the effective date of the limited benefit plan. Eligibility cannot be reestablished until the six-month period of ineligibility has expired. FIP eligibility does not exist for a person who reapplies for FIP after the notice is issued and before the effective date of the limited benefit plan because the person is not eligible to sign a family investment agreement until the six-month period of ineligibility has expired.

(3) To reconsider and end the limited benefit plan, the person must:

1. Contact the department or the appropriate PROMISE JOBS office to communicate the desire to engage in PROMISE JOBS activities,

2. Sign a new or updated family investment agreement, and

3. Satisfactorily complete 20 hours of employment or the equivalent in an activity other than work experience or unpaid community service, unless problems as described at rule 441—93.14(239B) or barriers as described at 441—subrule 93.4(5) apply. The 20 hours of employment or other activity must be completed within 30 days of the date that the family investment agreement is signed, unless problems as described at rule 441—93.14(239B) or barriers as described at 441—subrule 93.4(5) apply.

(4) FIP benefits shall not begin until the person who chose the limited benefit plan completes the previously defined significant actions. FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later, but in no case shall the effective date be within the six-month period of ineligibility.

f. Reconsideration by two-parent family. For a two-parent family when both parents are responsible for a family investment agreement as described at subrule 41.24(1), a first or subsequent limited benefit plan continues until both parents have completed significant contact or action with the PROMISE JOBS program as described in paragraphs “*d*” and “*e*” above.

g. Limited benefit plan imposed in error. A limited benefit plan imposed in error shall not be considered a limited benefit plan. This includes any instance when participation in PROMISE JOBS should not have been required as described in the administrative rules. Examples of instances when an error has occurred are:

(1) The person was exempt from PROMISE JOBS participation at the time the person chose the limited benefit plan.

(2) It is verified that the person considered to have chosen the limited benefit plan moved out of state or requested cancellation of FIP prior to the date that PROMISE JOBS determined the limited benefit plan was chosen.

(3) The final appeal decision under 441—Chapter 7 reverses the decision to impose a limited benefit plan.

(4) It is determined that the entire amount of assistance issued for the person who chose the limited benefit plan is subject to recoupment for the month when the person chose not to fulfill the terms of the family investment agreement.

(5) The person informs PROMISE JOBS of a newly revealed problem as described at rule 441—93.14(239B) or barrier as described at 441—subrule 93.4(5) after the limited benefit plan is imposed, and it is reasonable that the problem or barrier contributed to a failure that resulted in imposition of the limited benefit plan. The person may be required to provide documentation of the problem or barrier as described at 441—subrule 93.10(3).

41.24(9) *Nonparticipation by volunteer participants.* Rescinded IAB 7/21/04, effective 9/1/04.

41.24(10) *Notification of services.*

a. The department shall inform all applicants for and recipients of FIP of the advantages of employment under FIP.

b. The department shall provide a full explanation of the family rights, responsibilities, and obligations under PROMISE JOBS and the FIA, with information on the time-limited nature of the agreement.

c. The department shall provide information on the employment, education and training opportunities, and support services to which they are entitled under PROMISE JOBS, as well as the obligations of the department. This information shall include explanations of child care assistance and transitional Medicaid.

d. The department shall inform applicants for and recipients of FIP benefits of the grounds for exemption from FIA responsibility and from participation in the PROMISE JOBS program.

e. The department shall explain the LBP and the process by which FIA-responsible persons can choose the LBP.

f. The department shall inform all applicants for and recipients of FIP of their responsibility to cooperate in establishing paternity and enforcing child support obligations.

g. The department shall inform applicants for FIP benefits that a family investment agreement must be signed before FIP approval as a condition of eligibility, except as described at subrule 41.24(2). [ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1146C, IAB 10/30/13, effective 1/1/14; ARC 1208C, IAB 12/11/13, effective 2/1/14]

441—41.25(239B) Uncategorized factors of eligibility.

41.25(1) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

41.25(2) *Duplication of assistance.* A recipient whose needs are included in a family investment program grant shall not concurrently receive a grant under any other public assistance program administered by the department, including IV-E foster care or state-funded foster care.

a. A recipient shall not concurrently receive the family investment program and subsidized adoption unless exclusion of the person from the FIP grant will reduce benefits to the family.

b. When a family investment program recipient is approved for foster care or subsidized adoption assistance while remaining in the same home, family investment program assistance shall be canceled effective the first day of the next calendar month following the date approval of the foster care or subsidized adoption payment is successfully entered into the department's computer system. FIP assistance for the month for which the foster care or subsidized adoption payment is approved or any past months for which foster care or subsidized adoption payments are made retroactively shall not be subject to recoupment.

c. A recipient shall not concurrently receive a grant from a public assistance program in another state.

d. When a recipient leaves the home of a specified relative, no payment for a concurrent period shall be made for the same recipient in the home of another relative.

41.25(3) *Aid from other funds.* Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

41.25(4) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive the family investment program when the other party, obligated to provide the support, is able to fulfill that part of the contract.

41.25(5) *Participation in a strike.*

a. The family of any parent with whom the child(ren) is living shall be ineligible for the family investment program for any month in which the parent is participating in a strike on the last day of the month.

b. Any individual shall be ineligible for the family investment program for any month in which the individual is participating in a strike on the last day of that month.

c. Definitions:

(1) A strike is a concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(2) An individual is not participating in a strike at the individual's place of employment when the individual is not picketing and does not intend to picket during the course of the dispute, does not draw strike pay, and provides a signed statement that the individual is willing and ready to return to work but does not want to cross the picket line solely because of the risk of personal injury or death or trauma from harassment. The district administrator shall determine whether such a risk to the individual's physical or emotional well-being exists.

41.25(6) *Graduate students.* The entire assistance unit is ineligible for FIP when a member of the assistance unit is enrolled in an educational program leading to a degree beyond a bachelor's degree.

41.25(7) *Time limit for receiving assistance.* Rescinded IAB 7/11/01, effective 9/1/01.

41.25(8) *School attendance requirements.* Rescinded IAB 7/7/04, effective 7/1/04.

41.25(9) Pilot diversion programs. Assistance shall not be approved when an assistance unit is subject to a period of ineligibility as described at 441—Chapter 47.

41.25(10) Fugitive felons, and probation and parole violators. Assistance shall be denied to a person who is (1) convicted of a felony under state or federal law and is fleeing to avoid prosecution, custody or confinement, or (2) violating a condition of probation or parole imposed under state or federal law. The prohibition does not apply to conduct pardoned by the President of the United States, beginning with the month after the pardon is given.

41.25(11) Access to benefits.

a. A recipient shall not use the recipient's electronic access card issued pursuant to 441—subrule 45.21(1) to access benefits at any of the following prohibited locations as defined by federal statute or regulation applicable to this prohibition:

- (1) A liquor store,
- (2) A casino, gambling casino or gaming establishment, or
- (3) A retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

b. When the department receives a detailed complaint or suspects that a recipient has used the recipient's electronic access card at a prohibited location, the case shall be referred to the department of inspections and appeals for further investigation.

c. When the department of inspections and appeals finds that a recipient has used the recipient's electronic access card at a prohibited location, the household that includes the recipient is:

- (1) Considered to have committed a fraudulent act;
- (2) Liable for any amounts accessed at a prohibited location and required to repay such amount in accordance with 441—Chapter 46;
- (3) Ineligible for FIP for a three-month period after the first report by the department of inspections and appeals which includes a finding of misuse;
- (4) Ineligible for FIP for a six-month period after each subsequent report by the department of inspections and appeals which includes a finding of misuse.

d. When parents from a two-parent family separate during an ineligibility period, if:

- (1) The department of inspections and appeals investigation identifies the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow that recipient.
- (2) The department of inspections and appeals investigation does not identify the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow the recipient who is the case name when the violation occurred.

e. A new period of ineligibility shall be established when:

- (1) A recipient timely appeals the notice of decision establishing the ineligibility period,
- (2) Assistance is continued pending the final decision of the appeal, and
- (3) The department's action is affirmed.

Assistance issued pending the final decision of an appeal is not subject to recovery pursuant to 441—subrule 7.9(6).

This rule is intended to implement Iowa Code chapter 239B.

[ARC 1207C, IAB 12/11/13, effective 2/1/14; ARC 1478C, IAB 6/11/14, effective 8/1/14]

441—41.26(239B) Resources.

41.26(1) Limitation. An applicant or recipient may have the following resources and be eligible for the family investment program. Any resource not specifically exempted shall be counted toward resource limitations.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at 41.26(1) "n" or "o" and 41.26(6) "d," the net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

d. Motor vehicles.

(1) One motor vehicle without regard to its value.

(2) An equity not to exceed a value of \$4115 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in 41.26(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of \$4115 of any vehicle shall be counted toward the resource limit in 41.26(1) "e." When a motor vehicle is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle.

The department shall annually increase the motor vehicle equity value to be disregarded by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

e. A reserve of other property, real or personal, not to exceed \$2000 for applicant assistance units and \$5000 for recipient assistance units. EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the \$5000 limit. The exception includes those persons who did not receive an assistance grant due to the limitations described at rules 441—45.26(239B) and 45.27(239B) and persons whose grants were suspended as in 41.27(9) "f" in the month prior to the month of application.

Resources of the applicant or the recipient shall be determined in accordance with subrule 41.26(2).

f. Money which is counted as income in a month, during that same month; and that part of lump sum income defined in 41.27(9) "c"(2) reserved for the current or future month's income.

g. Payments which are exempted for consideration as income and resources under subrule 41.27(6).

h. An equity not to exceed \$1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of \$1,500 shall be counted toward resource limitations unless it is established that the funeral contract or burial trust is irrevocable.

i. One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

j. Settlements for payment of medical expenses.

k. Life estates.

l. Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

m. The balance in an individual development account (IDA), including interest earned on the IDA.

n. An equity not to exceed \$10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in computing whether the eligible group's property is within the reserve defined in paragraph "e."

o. Nonhomestead property that produces income consistent with the property's fair market value.

41.26(2) Persons considered.

a. Resources of persons in the eligible group shall be considered in establishing property limitations.

b. Resources of the parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group shall be considered in the same manner as if the parent were included in the eligible group.

c. Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

d. The resources of supplemental security income recipients shall not be counted in establishing property limitations.

e. The resources of a nonparental relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

f. and g. Rescinded IAB 10/4/00, effective 12/1/00.

41.26(3) Homestead defined. The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½-acre in area. When outside a city plat it shall not contain, in the aggregate, more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 41.26(5).

41.26(4) Liquidation. When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the recipient is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

b. Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 41.27(1) "f" and 41.27(7) "ah." The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

41.26(5) Net market value defined. Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

41.26(6) Availability.

a. A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant/recipient owns the property in part or in full and has control over it; that is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

b. Rescinded IAB 6/30/99, effective 9/1/99.

c. When property is owned by more than one person, unless otherwise established, it is assumed that all individuals hold equal shares in the property.

d. When the applicant or recipient owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

41.26(7) Damage judgments and insurance settlements.

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant/recipient the month following the month the payment was received. When the applicant/recipient signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

41.26(8) Trusts. The department shall determine whether assets from a trust or conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the trust agreement or order establishing a conservatorship.

a. Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

b. When the department questions whether the funds in a trust or conservatorship are available, the trust or conservatorship shall be referred to the central office.

(1) When assets in the trust or conservatorship are not clearly available, central office staff may contact the trustee or conservator and request that the funds in the trust or conservatorship be made available for current support and maintenance. When the trustee or conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(2) Funds in a trust or conservatorship that are not clearly available shall be considered unavailable until the trustee, conservator or court actually makes the funds available. Payments received from the trust or conservatorship for basic or special needs are considered income.

41.26(9) Aliens sponsored by individuals. When an alien admitted for lawful permanent residence is sponsored by a person who executed an enforceable affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the resources of the alien shall be deemed to include the resources of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount of the resources of the sponsor and the sponsor's spouse deemed to the alien shall be the total countable resources as described in rule 441—41.26(239B) remaining after a \$1,500 deduction is subtracted. The following are exceptions to deeming of a sponsor's resources:

a. Deeming of the sponsor's resources does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at rule 441—40.21(239B);
or

(3) The sponsored alien or the sponsor dies.

b. An indigent alien is exempt from the deeming of a sponsor's resources for 12 months after indigence is determined. An alien shall be considered indigent if:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's resources for 12 months.

41.26(10) Not considered a resource. Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint and seed. Capital assets are those assets which, if sold at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, and inventory or supplies retained by the household shall not be considered a resource.

This rule is intended to implement Iowa Code section 239B.5.

[ARC 9439B, IAB 4/6/11, effective 6/1/11]

441—41.27(239B) Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the family investment program grant.

1. The determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income, exclusive of the family

investment program grant, received by the eligible group and available to meet the current month's needs is no more than 185 percent of the standard of need for the eligible group; (2) the countable net unearned and earned income is less than the standard of need for the eligible group; and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the payment standard for the eligible group.

2. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the standard of need for the eligible group; and (2) countable net unearned and earned income is less than the payment standard for the eligible group.

3. The amount of the family investment program grant shall be determined by subtracting countable net income from the payment standard for the eligible group. Child support assigned to the department in accordance with subrule 41.22(7) and retained by the department as described in subparagraph 41.27(1) "h"(2) shall be considered as exempt income for the purpose of determining continuing eligibility, including child support as specified in paragraph 41.27(7) "q." Deductions and diversions shall be allowed when verification is provided.

41.27(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. Social security income is the amount of the entitlement before withholding of a Medicare premium.

b. Rescinded, effective December 1, 1986.

c. Rescinded, effective September 1, 1980.

d. Rescinded IAB 2/11/98, effective 2/1/98.

e. Rescinded IAB 2/11/98, effective 2/1/98.

f. When the applicant or recipient sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined in 41.26(4). The interest portion of the payment is considered a resource the month following the month of receipt.

g. Every person in the eligible group and any parent living in the home of a child in the eligible group shall take all steps necessary to apply for and, if entitled, accept any financial benefit for which that person may be qualified, even though the benefit may be reduced because of the laws governing a particular benefit. When the person claims a physical or mental disability that is expected to last continuously for 12 months from the time of the claim or to result in death and the person is unable to engage in substantial activity due to the disability, or the person otherwise appears eligible, as the person is aged 65 or older or is blind, the person shall apply for social security benefits and supplemental security income benefits.

(1) Except as described in subparagraph (2), the needs of any person who refuses to take all steps necessary to apply for and, if eligible, to accept other financial benefits shall be removed from the eligible group. The person remains eligible for the work incentive disregard described in paragraph 41.27(2) "c."

(2) The entire assistance unit is ineligible for FIP when a person refuses to apply for or, if entitled, to accept social security or supplemental security income. For applicants, this subparagraph applies to those who apply on or after July 1, 2002. For FIP recipients, this subparagraph applies at the time of the next six-month or annual review as described at 441—subrule 40.27(1) or when the recipient reports a change that may qualify a person in the eligible group or a parent living in the home for these benefits, whichever occurs earlier.

h. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance

grant(s). Any cash support payment for a member of the eligible group, except as described at 41.27(7) “p” and “q,” received by the recipient after the date of decision as defined in 441—subrule 40.24(4) shall be refunded to the child support recovery unit.

(2) Assigned support collected in a month and retained by child support recovery shall be exempt as income for determining prospective or retrospective eligibility. Participants shall have the option of withdrawing from FIP at any time and receiving their child support direct.

(3) and (4) Rescinded IAB 12/3/97, effective 2/1/98.

i. The applicant or recipient shall cooperate in supplying verification of all unearned income, as defined at rule 441—40.21(239B). When the information is available, the department shall verify job insurance benefits by using information supplied to the department by the department of workforce development. When the department uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A payment adjustment shall be made when indicated. Recoupment shall be made for any overpayment. The client must report the discrepancy prior to the payment month or within ten days of the date on the Notice of Decision, Form 470-0485(C) or 470-0486(M), applicable to the payment month, whichever is later, in order to receive a payment adjustment.

41.27(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. *Earned income deduction.* Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, is considered in determining eligibility and the amount of the assistance grant is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include all work-related expenses other than child care. These expenses shall include, but not be limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. Rescinded IAB 12/29/99, effective 3/1/00.

c. *Work incentive disregard.* After deducting the allowable work-related expenses as defined in paragraph 41.27(2)“a” and income diversions as defined in subrules 41.27(4) and 41.27(8), the department shall disregard 58 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each person whose income must be considered in determining eligibility and the amount of the assistance grant.

(1) The work incentive disregard is not time-limited.

(2) Initial eligibility is determined without the application of the work incentive disregard as described at subparagraphs 41.27(9)“a”(2) and (3).

d. *Self-employment.* A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person’s own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

e. *Self-employment income.* Earned income from self-employment as defined in paragraph 41.27(2)“d” means the net profit from self-employment. “Net profit” means gross self-employment income less:

(1) Forty percent of the gross income to cover the costs of producing the income, or

(2) At the request of the applicant or recipient, actual expenses determined in the manner specified in paragraph 41.27(2)“f.”

f. Deduction of self-employment expenses. When the applicant or recipient requests that actual expenses be deducted, the net profit from self-employment income shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent; the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

g. Child care income. Gross income from providing child care in the applicant's or recipient's own home shall include the total payment(s) received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

h. Income verification. The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—40.21(239B). A self-employed individual shall keep any records necessary to establish eligibility.

41.27(3) Shared living arrangements. When a family investment program parent shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the family investment program eligible group, exclusively for their needs, are considered income.

41.27(4) Diversion of income.

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the ineligible child(ren) of the parent living in the family group who meets the age and school attendance requirements specified in subrule 41.21(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible child(ren) of the parent and a companion in the home only when the income and resources of the companion and the child(ren) are within family investment program standards. The maximum income that shall be diverted to meet the needs of the ineligible child(ren) shall be the difference between the needs of the eligible group if the ineligible child(ren) were included and the needs of the eligible group with the child(ren) excluded, except as specified in 41.27(8) "a"(2) and 41.27(8) "b."

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

41.27(5) Income of unmarried specified relatives under age 19. Treatment of the income of an unmarried specified relative under the age of 19 is determined by whether the specified relative lives with a parent who receives FIP assistance, lives with a nonparental relative, lives in an independent living arrangement, or lives with a self-supporting parent, as follows.

a. Living with a parent on FIP, with a nonparental relative, or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the grant of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the grant of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Living with a self-supporting parent. The income of an unmarried specified relative under the age of 19 who is living in the same home as one or both of the person's self-supporting parents shall be treated in accordance with subparagraphs (1), (2), and (4) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parent(s) shall be treated in accordance with 41.27(8) "c."

(3) Rescinded IAB 4/3/91, effective 3/14/91.

(4) When the unmarried specified relative is age 18, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority.

41.27(6) Exempt as income and resources. The following shall be exempt as income and resources:

a. Food reserves from home-produced garden products, orchards, domestic animals, and the like, when utilized by the household for its own consumption.

b. The value of the food assistance program benefit.

c. The value of the United States Department of Agriculture donated foods (surplus commodities).

d. The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

e. Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

f. Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

g. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

h. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

i. Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

j. Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

k. Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

l. Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.

m. The income of a supplemental security income recipient.

n. Income of an ineligible child.

o. Income in-kind.

p. Family support subsidy program payments.

q. Grants obtained and used under conditions that preclude their use for current living costs.

r. All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 41.22(3), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.

- s. Rescinded IAB 2/11/98, effective 2/1/98.
 - t. Any income restricted by law or regulation which is paid to a representative payee, living outside the home, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.
 - u. The first \$50 received and retained by an applicant or recipient which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed \$50 per month per eligible group.
 - v. Bona fide loans. Evidence of a bona fide loan may include any of the following:
 - (1) The loan is obtained from an institution or person engaged in the business of making loans.
 - (2) There is a written agreement to repay the money within a specified time.
 - (3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is a borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.
 - w. Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
 - x. The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.
 - y. Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.
 - z. Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."
 - aa. Payments received from the Radiation Exposure Compensation Act.
 - ab. Deposits into an individual development account (IDA) when determining eligibility and benefit amount. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. The deposit shall be deducted from nonexempt earned and unearned income that the client receives in the same budget month in which the deposit is made. To allow a deduction, verification of the deposit shall be provided by the end of the report month or the extended filing date, whichever is later. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions in 41.27(2) "a" and "c" shall be applied to nonexempt earnings from employment or net profit from self-employment that remain after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.
 - ac. Assigned support collected in a month and retained by child support recovery as described in subparagraph 41.27(1) "h"(2).
- 41.27(7) Exempt as income.** The following are exempt as income.
- a. Reimbursements from a third party.
 - b. Reimbursement from the employer for job-related expenses.
 - c. The following nonrecurring lump sum payments:
 - (1) Income tax refund.
 - (2) Retroactive supplemental security income benefits.
 - (3) Settlements for the payment of medical expenses.
 - (4) Refunds of security deposits on rental property or utilities.
 - (5) That part of a lump sum received and expended for funeral and burial expenses.
 - (6) That part of a lump sum both received and expended for the repair or replacement of resources.
 - d. Payments received by the family providing foster care to a child or children when the family is operating a licensed foster home.

- e.* Rescinded IAB 5/1/91, effective 7/1/91.
- f.* A small monetary nonrecurring gift, such as a Christmas, birthday or graduation gift, not to exceed \$30 per person per calendar quarter.

When a monetary gift from any one source is in excess of \$30, the total gift is countable as unearned income. When monetary gifts from several sources are each \$30 or less, and the total of all gifts exceeds \$30, only the amount in excess of \$30 is countable as unearned income.
- g.* Federal or state earned income tax credit.
- h.* Supplementation from county funds providing:
 - (1) The assistance does not duplicate any of the basic needs as recognized by the family investment program, or
 - (2) The assistance, if a duplication of any of the basic needs, is made on an emergency basis, not as ongoing supplementation.
- i.* Any payment received as a result of an urban renewal or low-cost housing project from any governmental agency.
- j.* A retroactive corrective payment.
- k.* The training allowance issued by the division of vocational rehabilitation, department of education.
- l.* Payments from the PROMISE JOBS program.
- m.* Rescinded, effective July 1, 1989.
- n.* The training allowance issued by the department for the blind.
- o.* Payment(s) from a passenger(s) in a car pool.
- p.* Support refunded by the child support recovery unit for the first month of termination of eligibility and the family does not receive the family investment program.
- q.* Rescinded IAB 11/8/06, effective 1/1/07.
- r.* Rescinded IAB 11/8/06, effective 1/1/07.
- s.* Income of a nonparental relative as defined in 41.22(3) except when the relative is included in the eligible group.
- t.* Rescinded IAB 11/8/06, effective 1/1/07.
- u.* Rescinded IAB 9/11/96, effective 11/1/96.
- v.* Compensation in lieu of wages received by a child funded through an employment and training program of the U.S. Department of Labor.
- w.* Any amount for training expenses included in a payment funded through an employment and training program of the U.S. Department of Labor.
- x.* Rescinded, effective July 1, 1986.
- y.* Earnings of an applicant or recipient aged 19 or younger who is a full-time student as defined in 41.24(2)“e.” The exemption applies through the entire month of the person’s twentieth birthday.

EXCEPTION: When the twentieth birthday falls on the first day of the month, the exemption stops on the first day of that month.
- z.* Income attributed to an unmarried, underage parent in accordance with 41.27(8)“c” effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or reaches majority through marriage. When the unmarried, underage parent turns age 18 on the first day of a month, the income of the self-supporting parent(s) becomes exempt as of the first day of that month.
- aa.* Rescinded IAB 12/3/97, effective 2/1/98.
- ab.* Incentive payments received from participation in the adolescent pregnancy prevention programs.
- ac.* Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.
- ad.* Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.
- ae.* Interest and dividend income.
- af.* Rescinded IAB 12/3/97, effective 2/1/98.

ag. Rescinded IAB 11/8/06, effective 1/1/07.

ah. Welfare reform and regular household honorarium income. All moneys paid to a FIP household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

ai. Diversion or self-sufficiency grants assistance as described at 441—Chapter 47.

aj. Payments from property sold under an installment contract as specified in paragraphs 41.26(4) “*b*” and 41.27(1) “*f*.”

ak. All census earnings received by temporary workers from the Bureau of the Census.

41.27(8) *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

a. Treatment of income in excluded parent cases.

(1) A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the earned income deduction described at paragraph 41.27(2) “*a*,” the work incentive disregard described at paragraph 41.27(2) “*c*,” and diversions described at subrule 41.27(4).

(2) The excluded parent shall be permitted to retain that part of the parent’s income to meet the parent’s needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at subrule 41.27(11).

(3) All remaining income of the excluded parent shall be applied against the needs of the eligible group.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) to (10) below.

(1) The stepparent’s monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) Rescinded IAB 6/30/99, effective 7/1/99.

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at 41.27(11), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.27(8) “*b*”(1) to (4) above shall be used to meet the needs of the stepparent and the stepparent’s dependents living in the home, when the dependents’ needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the family investment program standard of need for a family group of the same composition.

(6) The stepparent shall be allowed the work incentive disregard described at paragraph 41.27(2) “*c*” from monthly earnings. The disregard shall be applied to earnings that remain after all other deductions in subparagraphs 41.27(8) “*b*”(1) through (5) have been subtracted from the earnings. However, the work incentive disregard is not allowed when determining initial eligibility as described at subparagraphs 41.27(9) “*a*”(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) will first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the month received. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependents living in the home who are not eligible for FIP, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any child(ren) of the parent living in the home who is not eligible for FIP shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parent(s), the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to 41.27(8) "b"(1) to (7). Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with 41.27(8) "b"(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to 41.27(8) "b"(1) to (7). Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with 41.27(8) "b"(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit; the self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

41.27(9) Budgeting process. Both initial and ongoing eligibility and benefits shall be determined using a projection of income based on the best estimate of future income.

a. Initial eligibility.

(1) At time of application, all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for the family investment program, except income which is exempt. All countable earned and unearned income received by the eligible group during the 30 days before the interview shall be used to project future income. If the applicant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

When income is prorated in accordance with 41.27(9) "c"(1) and 41.27(9) "i," the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185 percent test defined in rule 441—41.27(239B). The determination of eligibility in the month of decision is a three-step process as described in rule 441—41.27(239B).

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other month after assistance is approved, exceeds 185 percent of the standard of need for the eligible group, the application shall be rejected or the assistance grant canceled. Countable gross income means nonexempt gross income, as defined in rule 441—41.27(239B), without application of any disregards, deductions, or diversions. When the countable gross nonexempt earned and unearned income in the month of decision equals or is less than 185 percent of the standard of need for the eligible group, initial eligibility under the standard of need shall then be determined. Initial eligibility under the standard of need is determined without application of the work incentive disregard as specified in paragraph 41.27(2) "c." All other appropriate exemptions, deductions and diversions are applied.

Countable income is then compared to the standard of need for the eligible group. When countable net earned and unearned income in the month of decision equals or exceeds the standard of need for the eligible group, the application shall be denied.

(3) When the countable net income in the month of decision is less than the standard of need for the eligible group, the work incentive disregard described in paragraph 41.27(2)“c” shall be applied when there is eligibility for this disregard. When countable net earned and unearned income in the month of decision, after application of the work incentive disregard and all other appropriate exemptions, deductions, and diversions, equals or exceeds the payment standard for the eligible group, the application shall be denied.

When the countable net income in the month of decision is less than the payment standard for the eligible group, the eligible group meets income requirements. The amount of the family investment program grant shall be determined by subtracting countable net income in the month of decision from the payment standard for the eligible group, except as specified in subparagraph 41.27(9)“a”(4).

(4) Eligibility for the family investment program for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of decision, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. When the applicant is eligible for some, but not all, months of the application period due to the time limit described at subrule 41.30(1), family investment program eligibility shall be determined for the month of decision first, then the immediately preceding month, and so on until the time limit has been reached.

(5) Rescinded IAB 11/8/06, effective 1/1/07.

(6) Rescinded IAB 11/8/06, effective 1/1/07.

(7) Rescinded IAB 7/4/07, effective 8/1/07.

b. Ongoing eligibility.

(1) The department shall prospectively compute eligibility and benefits when review information is submitted as described in 441—subrule 40.27(3). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(2) When a change in eligibility factors occurs, the department shall prospectively compute eligibility and benefits based on the change, effective no later than the month following the month the change occurred.

(3) Rescinded IAB 11/8/06, effective 1/1/07.

(4) The earned income deduction for each wage earner as defined in paragraph 41.27(2)“a” and the work incentive disregard as defined in paragraph 41.27(2)“c” shall be allowed.

c. Lump-sum income.

(1) Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be considered as income in the month received. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be considered as income in the month received, except periodic or intermittent income from self-employment shall be treated as described in 41.27(9)“i.” When the income that is subject to proration is earned, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income that is subject to proration is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or at any time during the receipt of assistance.

(2) Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 41.26(4), 41.26(7), 41.27(8)“b,” and 41.27(8)“c,” shall be treated in accordance with this rule. Nonrecurring lump-sum income shall be considered as income in the month received and counted in computing eligibility and the amount of the grant, unless the income is exempt. Nonrecurring lump-sum unearned income is defined as a payment in the nature of a windfall, for

example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. When countable income, exclusive of the family investment program grant but including countable lump-sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. In addition, the eligible group shall be ineligible for the number of full months derived by dividing the income by the standard of need for the eligible group. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter. The period of ineligibility shall begin with the month the lump sum is received.

When a nonrecurring lump sum is timely reported as required by 441—paragraph 40.27(4) “f,” recoupment shall not be made for the month of receipt. When a nonrecurring lump sum is timely reported, but the timely notice as required by rule 441—7.7(17A) requires the action be delayed until the second calendar month following the month of change, recoupment shall not be made for the first calendar month following the month of change. When a nonrecurring lump sum is not timely reported, recoupment shall be made beginning with the month of receipt.

The period of ineligibility shall be shortened when the schedule of living costs as defined in 41.28(2) increases.

The period of ineligibility shall be shortened by the amount that is no longer available to the eligible group due to a loss or a theft or because the person controlling the lump sum no longer resides with the eligible group.

The period of ineligibility shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82 and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 41.26(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

When countable income, including the lump-sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the month received. For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals not in the eligible group when the lump-sum income was received may be eligible for the family investment program as a separate eligible group. Income of this eligible group plus income, excluding the lump-sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

d. The third digit to the right of the decimal point in any computation of income and hours of employment shall be dropped. This includes the calculation of the amount of a child support sanction as defined in paragraph 41.22(6) “f.”

e. In any month for which an individual is determined eligible to be added to a currently active family investment program case, the individual's needs shall be included subject to the effective date of grant limitations as prescribed in 441—40.26(239B).

(1) When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively.

(2) The needs of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month.

f. Rescinded IAB 11/8/06, effective 1/1/07.

g. When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the period being used and dividing the result by the number of instances of income received in that period. The result shall be multiplied by

four if the income is received weekly or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net income.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual's annual income shall be averaged over a 12-month period of time, even if the income is received within a short period of time during that 12-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3), (4), and (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3), (4) and (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, and after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the department shall recompute the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

j. Special needs.

(1) A special need as defined in 41.28(3) must be documented before payment shall be made.

(2) A one-time special need occurs and is considered in determining need for the calendar month in which the special need is entered on the automated benefit calculation system.

(3) An ongoing special need is considered in determining need for the calendar month following the calendar month in which the special need is entered on the automated benefit calculation system.

(4) When the special need continues, payment shall be included, prospectively, in each month's family investment program grant. When the special need ends, payment shall be removed prospectively. Any overpayment for a special need shall be recouped.

(5) Rescinded IAB 11/8/06, effective 1/1/07.

k. When a family's assistance for a month is subject to recoupment because the family was not eligible, individuals applying for assistance during the same month may be eligible for the family investment program as a separate eligible group. Income of this new eligible group plus income of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant. The income of an ineligible parent or other legally responsible person shall be considered prospectively in accordance with 41.27(4) and 41.27(8).

41.27(10) *Aliens sponsored by individuals.* When an alien admitted for lawful permanent residence is sponsored by a person who executed an enforceable affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income of the alien shall be deemed to include the income of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount of the income of the sponsor and the sponsor's spouse deemed to the alien shall be the total gross earned and unearned income remaining after allowing the earned income deduction described at paragraph 41.27(2) "a," the work incentive disregard described at paragraph 41.27(2) "c," and diversions described at subrule 41.27(4). The following are exceptions to deeming of a sponsor's income:

a. Deeming of the sponsor's income does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act;

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at rule 441—40.21(239B); or

(3) The sponsored alien or the sponsor dies.

b. An indigent alien is exempt from the deeming of a sponsor's income for 12 months after indigence is determined. An alien shall be considered indigent if:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income for 12 months.

41.27(11) *Restriction on diversion of income.* No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule 441—46.29(239B), or who is required to be included in the eligible group according to 41.28(1) "a" and has failed to cooperate. This restriction applies to 41.27(4) "a" and 41.27(8).

This rule is intended to implement Iowa Code section 239B.7.

[**ARC 8500B**, IAB 2/10/10, effective 3/1/10; **ARC 9043B**, IAB 9/8/10, effective 11/1/10; **ARC 9439B**, IAB 4/6/11, effective 6/1/11; **ARC 0148C**, IAB 6/13/12, effective 8/1/12; **ARC 1478C**, IAB 6/11/14, effective 8/1/14]

441—41.28(239B) Need standards.

41.28(1) *Definition of the eligible group.* The eligible group consists of all eligible people specified below and living together, except when one or more of these people receive supplemental security income under Title XVI of the Social Security Act. There shall be at least one child in the eligible group except when the only eligible child is receiving supplemental security income. The unborn child is not considered a member of the eligible group for purposes of establishing the number of people in the eligible group.

a. The following persons shall be included (except as otherwise provided in these rules), without regard to the person's employment status, income or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as payee when the parent is in the home, but is unable to act as payee.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the incapacitated stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be obtained from either an independent physician or psychologist or the state rehabilitation agency. The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity. When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment. A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of incapacity.

(4) Rescinded IAB 6/30/99, effective 7/1/99.

41.28(2) Schedule of needs. The schedule of living costs represents 100 percent of basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the standard of need defined in 441—40.21(239B). The 185 percent schedule is included for the determination of eligibility in accordance with 441—41.27(239B). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for a family investment program grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, when these needs must be determined in accordance with the payment standard defined in 441—40.21(239B). The percentage of basic needs paid to one or more persons as compared to the schedule of living costs is shown on the chart below.

SCHEDULE OF NEEDS

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each Additional Person
185% of Living Costs	675.25	1330.15	1570.65	1824.10	2020.20	2249.60	2469.75	2695.45	2915.60	3189.40	320.05
Schedule of Living Costs	365	719	849	986	1092	1216	1335	1457	1576	1724	173
Schedule of Basic Needs	183	361	426	495	548	610	670	731	791	865	87
Ratio of Basic Needs to Living Costs	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18

CHART OF BASIC NEEDS COMPONENTS

(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	77.14	65.81	47.10	35.20	31.74	26.28	25.69	22.52	20.91	20.58
Utilities	19.29	16.45	11.77	8.80	7.93	6.57	6.42	5.63	5.23	5.14
Household Supplies	4.27	5.33	4.01	3.75	3.36	3.26	3.10	3.08	2.97	2.92
Food	34.49	44.98	40.31	39.11	36.65	37.04	34.00	33.53	32.87	32.36
Clothing	11.17	11.49	8.70	8.75	6.82	6.84	6.54	6.39	6.20	6.10
Pers. Care & Supplies	3.29	3.64	2.68	2.38	2.02	1.91	1.82	1.72	1.67	1.64
Med. Chest Supplies	.99	1.40	1.34	1.13	1.15	1.11	1.08	1.06	1.09	1.08
Communications	7.23	6.17	3.85	3.25	2.50	2.07	1.82	1.66	1.51	1.49
Transportation	25.13	25.23	22.24	21.38	17.43	16.59	15.24	15.79	15.44	15.19

a. The definitions of the basic need components are as follows:

(1) Shelter: Rental, taxes, upkeep, insurance, amortization.

- (2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.
- (3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.
- (4) Food: Including school lunches.
- (5) Clothing: Including layette, laundry, dry cleaning.
- (6) Personal care and supplies: Including regular school supplies.
- (7) Medicine chest items.
- (8) Communications: Telephone, newspapers, magazines.
- (9) Transportation: Includes bus fares and other out-of-pocket costs of operating a privately owned vehicle.

b. Special situations in determining eligible group:

(1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving the family investment program assistance for the relative's own children.

(2) When the unmarried specified relative under age 19 is living in the same home with a parent or parents who receive the family investment program, the needs of the specified relative, when eligible, shall be included in the same eligible group with the parent(s). When the specified relative is a parent, the needs of the eligible children for whom the unmarried parent is caretaker shall be included in the same eligible group. When the specified relative is a nonparental relative, the needs of the eligible children for whom the specified relative is caretaker shall be considered a separate eligible group.

When the unmarried specified relative under the age of 19 is living in the same home as a parent(s) who receives the family investment program but the specified relative is not an eligible child, need of the specified relative shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative is under the age of 18 and living in the same home with a parent(s) who does not receive the family investment program, the needs of the specified relative, when eligible, shall be included in the assistance grant with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined in 41.22(3), only the needs of the eligible children shall be included in the assistance grant. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group is receiving supplemental security income benefits, the person, income, and resources shall not be considered in determining family investment program benefits for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of assistance, the assistance grant shall be computed on the basis of their comprising one eligible group. This rule shall not be construed to require that an application for assistance be made for children who are not the natural or adoptive children of the applicant.

41.28(3) *Special needs.* On the basis of demonstrated need the following special needs shall be allowed, in addition to the basic needs.

a. School expenses. Any specific charge, excluding tuition, for a child's education made by the school, or in accordance with school requirements in connection with a course in the curriculum, shall be allowed provided the allowance shall not exceed the reasonable cost required to meet the specifications of the course, and the student is actually participating in the course at the time the expense is claimed. Payment will not be made for ordinary expenses for school supplies.

b. Guardian/conservator fee. An amount not to exceed \$10 per case per month may be allowed for guardian's/conservator's fees when authorized by appropriate court order. No additional payment is permitted for court costs or attorney's fees.

c. FIP special needs classroom training. Rescinded IAB 12/3/97, effective 2/1/98.

d. Job Training Partnership Act. Rescinded IAB 12/3/97, effective 2/1/98.

41.28(4) *Period of adjustment.* Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code section 239B.5.

441—41.29(239B) Composite FIP/SSI cases. When persons in the family investment program household, who would ordinarily be in the eligible group, are receiving supplemental security income benefits, the following rules shall apply.

41.29(1) *Pending SSI approval.* When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the family investment program grant pending approval of supplemental security income.

41.29(2) *Ownership of property.* When property is owned by both the supplemental security income beneficiary and the family investment program recipient, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

This rule is intended to implement Iowa Code section 239B.5.

441—41.30(239B) Time limits.

41.30(1) *Sixty-month limit.* Assistance shall not be provided to a FIP applicant or recipient family that includes an adult who has received assistance for 60 calendar months under FIP or any state program in Iowa or in another state that is funded by the Temporary Assistance for Needy Families (TANF) block grant. The 60-month period need not be consecutive.

a. An "adult" is any person who is a parent of the FIP child in the home, the parent's spouse, or included as an optional member under subparagraphs 41.28(1)"b"(1), (2) and (3). In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

b. "Assistance" shall include any month for which the adult receives a FIP grant. Assistance received for a partial month shall count as a full month.

41.30(2) *Determining number of months.*

a. In determining the number of months an adult received assistance, the department shall consider toward the 60-month limit:

(1) Assistance received even when the parent is excluded from the grant unless the parent, or both parents in a two-parent household, are supplemental security income (SSI) recipients.

(2) Assistance received by an optional member of the eligible group as described in subparagraphs 41.28(1)"b"(1) and (2). However, once the person has received assistance for 60 months, the person is ineligible but assistance may continue for other persons in the eligible group. The entire family is ineligible for assistance when the optional member who has received assistance for 60 months is the incapacitated stepparent on the grant as described at subparagraph 41.28(1)"b"(3).

b. When the parent, or both parents in a two-parent household, have received 60 months of FIP assistance and are subsequently approved for supplemental security income, FIP assistance for the children may be granted, if all other eligibility requirements are met.

c. When a minor parent and child receive FIP on the adult parent's case and the adult parent is no longer eligible due to the 60-month limit on FIP assistance, the minor parent may reapply for FIP as a minor parent living with a self-supporting parent.

d. In determining the number of months an adult received assistance, the department shall not consider toward the 60-month limit any month for which FIP assistance was not issued for the family, such as:

(1) A month of suspension.

(2) A month for which no grant is issued due to the limitations described in rules 441—45.26(239B) and 441—45.27(239B).

(3) Rescinded IAB 1/9/02, effective 3/1/02.

(4) Rescinded IAB 1/9/02, effective 3/1/02.

e. The department shall not consider toward the 60-month limit months of assistance a parent or pregnant person received as a minor child and not as the head of a household or married to the head of a

household. This includes assistance received for a minor parent for any month in which the minor parent was a child on the adult parent's or the specified relative's FIP case.

f. The department shall not consider toward the 60-month limit months of assistance received by an adult while living in Indian country (as defined in 18 United States Code Section 1151) or a Native Alaskan village where at least 50 percent of the adults were not employed.

41.30(3) Exception to the 60-month limit. A family may receive FIP assistance for more than 60 months as defined in subrule 41.30(1) if the family qualifies for a hardship exemption as described in this subrule. "Hardship" is defined as a circumstance that is preventing the family from being self-supporting. However, the family's safety shall take precedence over the goal of self-sufficiency.

a. Exclusions. Families with an adult as defined in subrule 41.30(1) who is not a U.S. citizen or a qualified alien as defined in rule 441—40.21(239B) are prohibited from receiving more than 60 months of FIP assistance. The family of an adult who is a nonqualified alien cannot meet the requirements of paragraph "g" of this subrule since the department is precluded from using public funds to provide a nonqualified alien with family investment agreement or PROMISE JOBS services by Iowa Code sections 239B.8 and 239B.18 and rule 441—41.24(239B).

b. Eligibility determination. Eligibility for the hardship exemption shall be determined on an individual family basis. A hardship exemption shall not begin until the adult in the family has received at least 60 months of FIP assistance.

c. Hardship exemption criteria. Circumstances that may lead to a hardship exemption may include, but are not limited to, the following:

(1) Domestic violence. "Domestic violence" means that the family includes someone who has been battered or subjected to extreme cruelty. It includes:

1. Physical acts that resulted in, or threatened to result in, physical injury to the individual.
2. Sexual abuse.
3. Sexual activity involving a dependent child.
4. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.
5. Threats of, or attempts at, physical or sexual abuse.
6. Mental abuse.
7. Neglect or deprivation of medical care.

(2) Lack of employability.

(3) Lack of suitable child care as defined in 441—subrule 93.4(5).

(4) Chronic or recurring medical conditions or mental health issues, or an accident or disease, when verified by a professional. The applicant or recipient shall follow a treatment plan to address the condition or issue.

(5) Housing situations that make it difficult or impossible to work.

(6) Substance abuse issues. A family requesting a hardship exemption due to substance abuse shall be required to obtain clinical assessment and follow an intensive treatment plan.

(7) Having a child whose circumstances require the parent to be in the home. This may include, but is not limited to, a child as defined in rule 441—170.1(234) or a child receiving child welfare, juvenile court or juvenile justice services. The safety of the child shall take precedence over the goal of self-sufficiency.

(8) Rescinded IAB 1/8/03, effective 1/1/03.

(9) Other circumstances which prevent the family from being self-supporting.

d. Eligibility for a hardship exemption.

(1) Families may be eligible for a hardship exemption when circumstances prevent the family from being self-supporting. The hardship condition shall be a result of a past or current experience that is affecting the family's current functioning. Current experience may include fear of an event that is likely to occur in the future. The definition of the hardship barrier relies upon the impact of the circumstances upon the family's ability to leave FIP rather than the type of circumstances.

(2) Families determined eligible for more than 60 months of FIP shall make incremental steps toward overcoming the hardship and participate to their maximum potential in activities reasonably expected to result in self-sufficiency.

(3) Barriers to economic self-sufficiency that were known and existing before the family reached the 60-month limit shall not be considered as meeting eligibility criteria for hardship unless the individual complied with PROMISE JOBS activities offered to overcome that specific barrier.

e. Requesting a hardship exemption.

(1) Families with adults as defined in subrule 41.30(1) who have or are close to having received 60 months of FIP assistance may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826, Request for FIP Beyond 60 Months. In addition, families that have received FIP for 60 months shall complete Form 470-0462 or Form 470-0462(S), Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department's request shall result in denial of the hardship request.

(2) In families that request FIP beyond 60 months, all adults as defined in subrule 41.30(1) shall sign the request. When the adult is incompetent or incapacitated, someone acting responsibly on the adult's behalf may sign the request.

(3) Requests for a hardship exemption shall not be accepted prior to the first day of the family's fifty-ninth month of FIP assistance. The date of the request shall be the date an identifiable Form 470-3826 is received in any department of human services or PROMISE JOBS office. An identifiable form is one that contains a legible name and address and that has been signed.

(4) To receive more than 60 months of FIP assistance, families must be eligible for a hardship exemption and meet all other FIP eligibility requirements.

(5) When an adult as defined in subrule 41.30(1) who has received FIP for 60 months joins a recipient family that has not received 60 months of FIP assistance, eligibility shall continue only if the recipient family submits Form 470-3826 and is approved for a hardship exemption as described in subrule 41.30(3) and meets all other FIP eligibility requirements.

(6) When an adult as defined in subrule 41.30(1) joins a recipient family that is in an exemption period, the current exemption period shall continue, if the recipient family continues to meet all other eligibility requirements, regardless of whether the joining adult has received FIP for 60 months.

(7) When two parents who are in a hardship exemption period separate, the remainder of the exemption period, if there is a need, shall follow the parent who retains the current FIP case.

f. Determination of hardship exemption.

(1) A determination on the request shall be made as soon as possible, but no later than 30 days following the date an identifiable Form 470-3826 is received in any department of human services or PROMISE JOBS office. A written notice of decision shall be issued to the family the next working day following a determination of eligibility or ineligibility for a hardship exemption.

The 30-day time standard shall apply except in unusual circumstances, such as when the department and the family have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

(2) When a Financial Support Application is required to regain FIP eligibility, the 30-day time frame in rule 441—40.25(239B) shall apply.

(3) Income maintenance shall determine eligibility for a hardship exemption.

(4) The family shall provide supporting evidence of the hardship barrier and the impact of the barrier upon the family's ability to leave FIP. The department shall advise the applicant or recipient about how to obtain necessary documents. Upon request, the department shall provide reasonable assistance in obtaining supporting documents when the family is not reasonably able to obtain the documents. The type of supporting evidence is dependent upon the circumstance that creates the hardship barrier.

(5) Examples of types of supporting evidence may include:

1. Court, medical, criminal, child protective services, social services, psychological, or law enforcement records.

2. Statements from professionals or other individuals with knowledge of the hardship barrier.
3. Statements from vocational rehabilitation or other job training professionals.
4. Statements from individuals other than the applicant or recipient with knowledge of the hardship circumstances. Written statements from friends and relatives alone may not be sufficient to grant hardship status, but may be used to support other evidence.

5. Court, criminal, police records or statements from domestic violence counselors may be used to substantiate hardship. Living in a domestic violence shelter shall not automatically qualify an individual for a hardship exemption, but would be considered strong evidence.

6. Actively pursuing verification of a disability through the Social Security Administration may not be sufficient to grant hardship status, but may be used to support other evidence.

(6) The department shall notify the family in writing of additional information or verification that is required to verify the barrier and its impact upon the family's ability to leave FIP. The family shall be allowed ten days to supply the required information or verification. The ten-day period may be extended under the circumstances described in 441—subrule 40.24(1) or 441—paragraph 40.27(4) "c." Failure to supply the required information or verification, or refusal by the family to authorize the department to secure the information or verification from other sources, shall result in denial of the family's request for a hardship exemption.

(7) Rescinded IAB 12/12/01, effective 11/14/01.

(8) Rescinded IAB 12/12/01, effective 11/14/01.

(9) Recipients whose FIP assistance is canceled at the end of the sixtieth month shall be eligible for reinstatement as described at 441—subrule 40.22(5) when Form 470-3826 is received before the effective date of cancellation even if eligibility for a hardship exemption is not determined until on or after the effective date of cancellation.

(10) When Form 470-3826 is not received before the effective date of the FIP cancellation and a Financial Support Application is required for the family to regain FIP eligibility, the effective date of assistance shall be no earlier than seven days from the date of application as described at rule 441—40.26(239B).

(11) Eligibility for a hardship exemption shall last for six consecutive calendar months. EXCEPTION: The six-month hardship exemption ends when FIP for the family is canceled for any reason and a Financial Support Application is required for the family to regain FIP eligibility. In addition, when FIP eligibility depends on receiving a hardship exemption, the family shall submit a new Form 470-3826. A new hardship exemption determination shall be required prior to FIP approval.

(12) FIP received for a partial month of the six-month hardship exemption period shall count as a full month.

(13) There is no limit on the number of hardship exemptions a family may receive over time.

g. Six-month family investment agreement (FIA). Families who request a hardship exemption shall develop and sign a six-month family investment agreement (FIA) as defined at rule 441—93.4(239B) to address the circumstances that are creating the barrier. All adults as defined in subrule 41.30(1) shall sign the six-month FIA unless the adult is a stepparent and is not requesting assistance or is exempt as specified at subrule 41.24(2).

(1) The six-month FIA shall contain specific steps to enable the family to make incremental progress toward overcoming the barrier. Each subsequent hardship exemption shall require a new six-month FIA. Failure to develop or sign a six-month FIA shall result in denial of the family's hardship exemption request.

(2) Families that request a hardship exemption shall be notified verbally and shall be hand-issued the notice of a scheduled appointment for orientation and FIA development. If the notice of appointment cannot be hand-issued, at least five working days shall be allowed from the date the notice is mailed for a participant to appear for the scheduled appointment for orientation and FIA development unless the participant agrees to an appointment that is scheduled to take place in less than five working days.

(3) Failure to attend a scheduled interview when required, except for reasons beyond the adult's control, shall result in a denial of the family's hardship exemption request. In two-parent families, both

parents shall be required to participate in any scheduled interview. When the adult is incompetent or incapacitated, someone acting responsibly on the adult's behalf may participate in the interview.

(4) PROMISE JOBS staff shall provide necessary supportive services as described in 441—Chapter 93 and shall monitor the six-month FIA. Periodic contacts shall be made with the family at least once a month. These contacts need not be in person. Time and attendance reports shall be required as specified at 441—subrule 93.10(2).

(5) The six-month FIA shall be renegotiated and amended under the circumstances described at 441—subrule 93.4(8).

(6) Any family that has been granted a hardship exemption and that does not follow the terms of the family's six-month FIA will have chosen a limited benefit plan in accordance with 441—Chapters 41 and 93.

h. Any family that is denied a hardship exemption may appeal the decision as described in 441—Chapter 7.

This rule is intended to implement Iowa Code chapter 239B.

[ARC 9439B, IAB 4/6/11, effective 6/1/11; ARC 1478C, IAB 6/11/14, effective 8/1/14]

[Filed 6/23/55; amended 4/12/72, 8/30/72, 11/20/72, 12/28/72, 6/21/73, 10/24/73, 3/20/74, 7/1/74, 12/2/74, 3/21/75]

[Emergency amendments filed and effective 9/19/75—published 10/6/75]

[Filed 11/25/75, Notice 10/6/75—published 12/15/75, effective 1/19/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed without notice 7/29/76—published 8/23/76, effective 9/27/76]

[Filed emergency 7/29/76—published 8/23/76, effective 7/29/76]

[Filed 9/29/76, Notice 8/23/76—published 10/20/76, effective 11/24/76]

[Filed 4/13/77, Notice 2/23/77—published 5/4/77, effective 6/8/77, 7/1/77]

[Filed emergency 7/20/77—published 8/10/77, effective 7/20/77]

[Filed 8/18/77, Notice 6/15/77—published 9/7/77, effective 10/12/77]

[Filed 1/16/78, Notice 9/7/77—published 2/8/78, effective 3/15/78]

[Filed 2/8/78, Notice 12/28/77—published 3/8/78, effective 4/12/78]

[Filed 6/1/78, Notice 4/19/78—published 6/28/78, effective 4/19/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 11/1/78]

[Filed 9/12/78, Notice 7/26/78—published 10/4/78, effective 11/8/78]

[Filed 12/6/78, Notice 10/4/78—published 12/27/78, effective 2/1/79]

[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

[Filed 1/31/79, Notice 11/29/78—published 2/21/79, effective 4/1/79]

[Filed 2/2/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]

[Filed 3/30/79, Notice 2/21/79—published 4/18/79, effective 5/23/79]

[Filed 6/5/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]

[Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]

[Filed 7/3/79, Notice 4/18/79—published 7/25/79, effective 9/1/79]

[Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 9/26/79]

[Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 10/1/79]

[Filed emergency after Notice 9/6/79, Notice 7/11/79—published 10/3/79, effective 10/1/79]

[Filed 9/6/79, Notice 7/11/79—published 10/3/79, effective 12/1/79]

[Filed 9/27/79, Notices 2/21/79, 4/18/79—published 10/17/79, effective 12/1/79]

[Filed 10/24/79, Notice 8/22/79—published 11/14/79, effective 1/1/80]

[Filed 4/4/80, Notice 1/23/80—published 4/30/80, effective 6/4/80]

[Filed emergency 5/5/80—published 5/28/80, effective 5/5/80]

[Filed emergency 6/4/80—published 6/25/80, effective 6/4/80]

[Filed 6/4/80, Notice 1/9/80—published 6/25/80, effective 8/1/80]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed 7/3/80, Notice 5/14/80—published 7/23/80, effective 9/1/80]

- [Filed 9/25/80, Notice 8/6/80—published 10/15/80, effective 11/19/80]
- [Filed 9/25/80, Notices 5/14/80, 7/23/80—published 10/15/80, effective 12/1/80]
- [Filed 1/16/81, Notice 11/12/80—published 2/4/81, effective 4/1/81]
- [Filed emergency 3/24/81—published 4/15/81, effective 3/24/81]
- [Filed emergency 3/24/81—published 4/15/81, effective 4/1/81]
- [Filed 3/24/81, Notice 2/4/81—published 4/15/81, effective 6/1/81]
- [Filed without Notice 3/24/81—published 4/15/81, effective 6/1/81]
- [Filed 4/23/81, Notices 2/18/81, 3/4/81—published 5/13/81, effective 7/1/81]
- [Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]
- [Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]
- [Filed emergency 10/23/81—published 11/11/81, effective 11/1/81][◊]
- [Filed 10/23/81, Notice 8/19/81—published 11/11/81, effective 1/1/82]
- [Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 2/1/82]
- [Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]
- [Filed 2/26/82, Notice 12/9/81—published 3/17/82, effective 5/1/82]
- [Filed 4/5/82, Notice 1/20/82—published 4/28/82, effective 7/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 6/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
- [Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]
- [Filed emergency 7/1/82—published 7/21/82, effective 7/1/82]
- [Filed emergency 7/30/82—published 8/18/82, effective 7/30/82]
- [Filed 7/30/82, Notice 4/14/82—published 8/18/82, effective 10/1/82]
- [Filed emergency 9/23/82—published 10/13/82, effective 10/1/82]
- [Filed emergency 10/29/82—published 11/24/82, effective 11/1/82][◊]
- [Filed emergency 2/25/83—published 3/16/83, effective 3/1/83]
- [Filed 2/25/83, Notice 10/27/82—published 3/16/83, effective 5/1/83]
- [Filed 2/25/83, Notices 7/7/82, 9/1/82—published 3/16/83, effective 5/1/83]
- [Filed emergency 3/25/83—published 4/13/83, effective 5/1/83]
- [Filed 4/15/83, Notice 10/27/82—published 5/11/83, effective 7/1/83]
- [Filed 4/21/83, Notice 2/16/83—published 5/11/83, effective 7/1/83]
- [Filed emergency 5/20/83—published 6/8/83, effective 6/1/83]
- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 9/1/83—published 9/28/83, effective 9/1/83]
- [Filed 9/1/83, Notice 6/22/83—published 9/28/83, effective 11/2/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 9/30/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 10/1/83]
- [Filed 11/18/83, Notices 9/28/83, 10/12/83—published 12/7/83, effective 2/1/84][◊]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed 12/16/83, Notices 3/16/83, 5/11/83, 6/8/83—published 1/4/84, effective 3/1/84]
- [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
- [Filed emergency 7/13/84—published 8/1/84, effective 8/1/84]
- [Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]
- [Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]
- [Filed emergency 11/1/84—published 11/21/84, effective 11/1/84]
- [Filed emergency 11/16/84—published 12/5/84, effective 12/1/84]
- [Filed emergency 12/11/84—published 1/2/85, effective 1/1/85]
- [Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]
- [Filed 1/21/85, Notice 12/5/84—published 2/13/85, effective 4/1/85]
- [Filed 3/4/85, Notice 1/2/85—published 3/27/85, effective 5/1/85]
- [Filed emergency after Notice 3/22/85, Notice 2/13/85—published 4/10/85, effective 4/1/85]
- [Filed 3/22/85, Notices 1/30/85, 2/13/85—published 4/10/85, effective 6/1/85]
- [Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]

- [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed 7/26/85, Notice 6/5/85—published 8/14/85, effective 10/1/85]
- [Filed emergency after Notice 11/15/85, Notice 9/25/85—published 12/4/85, effective 12/1/85]
- [Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
- [Filed emergency after Notice 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/1/86]
- [Filed 3/21/86, Notice 9/25/85—published 4/9/86, effective 6/1/86]
- [Filed without Notice 4/28/86—published 5/21/86, effective 7/1/86]
- [Filed emergency 5/28/86 after Notice 4/9/86—published 6/18/86, effective 6/1/86]
- [Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
- [Filed emergency 8/28/86 after Notice 7/16/86—published 9/24/86, effective 9/1/86]
- [Filed 9/3/86, Notice 7/2/86—published 9/24/86, effective 11/1/86]
- [Filed emergency 11/14/86 after Notice 10/8/86—published 12/3/86, effective 12/1/86]
- [Filed 11/14/86, Notice 10/8/86—published 12/3/86, effective 2/1/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 1/15/87—published 2/11/87, effective 2/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]
- [Filed emergency 8/28/87—published 9/23/87, effective 9/1/87]
- [Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
- [Filed 11/25/87, Notice 9/23/87—published 12/16/87, effective 2/1/88]
- [Filed 2/17/88, Notice 12/30/87—published 3/9/88, effective 6/1/88]
- [Filed without Notice 3/17/88—published 4/6/88, effective 6/1/88]
- [Filed 3/17/88, Notice 1/27/88—published 4/6/88, effective 6/1/88]
- [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
- [Filed 5/13/88, Notices 12/16/87, 3/23/88—published 6/1/88, effective 8/1/88]
- [Filed emergency 6/9/88 after Notice 5/4/88—published 6/29/88, effective 7/1/88]
- [Filed emergency 12/8/88—published 12/28/88, effective 12/8/88]
- [Filed 2/16/89, Notice 1/11/89—published 3/8/89, effective 5/1/89]
- [Filed emergency 4/13/89 after Notice 3/8/89—published 5/3/89, effective 5/1/89]
- [Filed 4/13/89, Notices 2/22/89, 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed emergency 6/29/89 after Notice 5/3/89—published 7/26/89, effective 7/1/89]
- [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
- [Filed emergency 9/15/89—published 10/4/89, effective 10/1/89]
- [Filed 12/15/89, Notice 7/26/89—published 1/10/90, effective 3/1/90]
- [Filed emergency 2/16/90—published 3/7/90, effective 4/1/90]
- [Filed 4/13/90, Notices 2/21/90, 3/7/90—published 5/2/90, effective 7/1/90]
- [Filed emergency 5/11/90—published 5/30/90, effective 7/1/90]
- [Filed 6/14/90, Notice 4/18/90—published 7/11/90, effective 9/1/90]
- [Filed 7/13/90, Notice 5/30/90—published 8/8/90, effective 10/1/90]
- [Filed emergency 8/16/90 after Notice 7/11/90—published 9/5/90, effective 9/1/90]
- [Filed 8/16/90, Notice 6/13/90—published 9/5/90, effective 11/1/90]
- [Filed 12/13/90, Notice 10/31/90—published 1/9/91, effective 3/1/91]
- [Filed emergency 2/14/91 after Notice 1/9/91—published 3/6/91, effective 3/1/91]
- [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
- [Filed without Notice 4/11/91—published 5/1/91, effective 7/1/91]
- [Filed 5/17/91, Notice 3/20/91—published 6/12/91, effective 8/1/91]
- [Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
- [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed 9/18/91, Notice 7/10/91^o—published 10/16/91, effective 12/1/91]
- [Filed emergency 10/10/91 after Notice 9/4/91—published 10/30/91, effective 11/1/91]
- [Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]
- [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]^o

- [Filed 1/16/92, Notice 9/18/91—published 2/5/92, effective 4/1/92]
- [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notice 12/8/93—published 3/2/94, effective 5/1/94]
- [Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
- [Filed emergency 1/11/95 after Notice 11/23/94—published 2/1/95, effective 2/1/95]
- [Filed 2/16/95, Notice 11/23/94—published 3/15/95, effective 5/1/95]
- [Filed 7/12/95, Notice 5/10/95—published 8/2/95, effective 10/1/95]
- [Filed without Notice 9/25/95—published 10/11/95, effective 12/1/95]
- [Filed emergency 11/16/95—published 12/6/95, effective 12/1/95]
- [Filed emergency 1/10/96 after Notice 10/11/95—published 1/31/96, effective 2/1/96]
- [Filed 1/10/96, Notice 10/11/95—published 1/31/96, effective 4/1/96]
- [Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
- [Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]
- [Filed 12/12/96, Notice 10/9/96—published 1/1/97, effective 3/1/97]
- [Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
- [Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
- [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
- [Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
- [Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
- [Filed 12/10/97, Notice 10/8/97—published 12/31/97, effective 3/1/98]
- [Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed 6/10/98, Notice 5/6/98—published 7/1/98, effective 9/1/98]
- [Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 5/31/99]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
- [Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 3/1/00]
- [Filed emergency 3/8/00—published 4/5/00, effective 4/1/00]
- [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
- [Filed 6/8/00, Notice 4/5/00—published 6/28/00, effective 9/1/00]
- [Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed emergency 11/14/01—published 12/12/01, effective 11/14/01]
- [Filed 12/12/01, Notice 10/17/01—published 1/9/02, effective 3/1/02]
- [Filed 2/14/02, Notice 12/12/01—published 3/6/02, effective 5/1/02]
- [Filed emergency 3/14/02—published 4/3/02, effective 4/1/02]
- [Filed 4/10/02, Notice 11/14/01—published 5/1/02, effective 7/1/02]
- [Filed 5/9/02, Notice 4/3/02—published 5/29/02, effective 8/1/02]
- [Filed emergency 12/12/02 after Notice 10/30/02—published 1/8/03, effective 1/1/03]

[Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]
 [Filed 7/1/04, Notice 1/21/04—published 7/21/04, effective 9/1/04]
 [Filed 9/23/04, Notice 7/7/04—published 10/13/04, effective 11/17/04]
 [Filed 8/12/05, Notice 6/8/05—published 8/31/05, effective 11/1/05]
 [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
 [Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
 [Filed emergency 6/13/07—published 7/4/07, effective 8/1/07]
 [Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]
 [Filed emergency 3/12/08—published 4/9/08, effective 3/12/08]
 [Filed 6/11/08, Notice 4/9/08—published 7/2/08, effective 8/6/08]
 [Filed 7/9/08, Notice 5/21/08—published 7/30/08, effective 10/1/08]
 [Filed emergency 8/15/08 after Notice 7/2/08—published 9/10/08, effective 10/1/08]
 [Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
 [Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
 [Filed 12/15/08, Notice 10/22/08—published 1/14/09, effective 3/1/09]
 [Filed ARC 8004B (Notice ARC 7776B, IAB 5/20/09), IAB 7/29/09, effective 10/1/09]
 [Filed Emergency After Notice ARC 8500B (Notice ARC 8272B, IAB 11/4/09), IAB 2/10/10,
 effective 3/1/10]
 [Filed ARC 9043B (Notice ARC 8853B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
 [Filed ARC 9439B (Notice ARC 9309B, IAB 12/29/10), IAB 4/6/11, effective 6/1/11]
 [Filed ARC 0148C (Notice ARC 0048C, IAB 3/21/12), IAB 6/13/12, effective 8/1/12]
 [Filed ARC 1146C (Notice ARC 0914C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1208C (Notice ARC 0999C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
 [Filed ARC 1207C (Notice ARC 1001C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
 [Filed ARC 1478C (Notice ARC 1385C, IAB 3/19/14), IAB 6/11/14, effective 8/1/14]

⁰ Two or more ARCs

¹ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

CHAPTER 75
CONDITIONS OF ELIGIBILITY

[Ch 75, 1973 IDR, renumbered as Ch 90]
[Prior to 7/1/83, Social Services[770] Ch 75]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

This chapter establishes the conditions of eligibility for the medical assistance program administered by the department of human services pursuant to Iowa Code chapter 249A and addresses related matters. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver of Title XIX requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.
[ARC 1134C, IAB 10/30/13, effective 10/2/13]

DIVISION I
GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS

441—75.1(249A) Persons covered.

75.1(1) *Persons receiving refugee cash assistance.* Medical assistance shall be available to all recipients of refugee cash assistance. Recipient means a person for whom a refugee cash assistance (RCA) payment is received and includes persons deemed to be receiving RCA. Persons deemed to be receiving RCA are:

- a. Persons denied RCA because the amount of payment would be less than \$10.
- b. Rescinded IAB 7/30/08, effective 10/1/08.
- c. Persons who are eligible in every respect for refugee cash assistance (RCA) as provided in 441—Chapter 60, but who do not receive RCA because they did not make application for the assistance.

75.1(2) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(3) *Persons who are ineligible for Supplemental Security Income (SSI) because of requirements that do not apply under Title XIX of the Social Security Act.* Medicaid shall be available to persons who would be eligible for SSI except for an eligibility requirement used in that program which is specifically prohibited under Title XIX.

75.1(4) *Beneficiaries of Title XVI of the Social Security Act (supplemental security income for the aged, blind and disabled) and mandatory state supplementation.* Medical assistance will be available to all beneficiaries of the Title XVI program and those receiving mandatory state supplementation.

75.1(5) *Persons receiving care in a medical institution who were eligible for Medicaid as of December 31, 1973.* Medicaid shall be available to all persons receiving care in a medical institution who were Medicaid members as of December 31, 1973. Eligibility of these persons will continue as long as they continue to meet the eligibility requirements for the applicable assistance programs (old-age assistance, aid to the blind or aid to the disabled) in effect on December 31, 1973.

75.1(6) *Persons who would be eligible for supplemental security income (SSI), state supplementary assistance (SSA), or the family medical assistance program (FMAP) except for their institutional status.* Medicaid shall be available to persons receiving care in a medical institution who would be eligible for SSI, SSA, or FMAP if they were not institutionalized.

75.1(7) *Persons receiving care in a medical facility who would be eligible under a special income standard.*

- a. Subject to paragraphs “b” and “c” below, Medicaid shall be available to persons who:
 - (1) Meet level of care requirements as set forth in rules 441—78.3(249A), 441—81.3(249A), and 441—82.7(249A).
 - (2) Receive care in a hospital, nursing facility, psychiatric medical institution, intermediate care facility for the mentally retarded, or Medicare-certified skilled nursing facility.

(3) Have gross countable monthly income that does not exceed 300 percent of the federal supplemental security income benefits for one.

(4) Either meet all supplemental security income (SSI) eligibility requirements except for income or are under age 21. FMAP policies regarding income and age do not apply when determining eligibility for persons under the age of 21.

b. For all persons in this coverage group, income shall be considered as provided for SSI-related coverage groups under subrule 75.13(2). In establishing eligibility for persons aged 21 or older for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2).

c. Eligibility for persons in this group shall not exist until the person has been institutionalized for a period of 30 consecutive days and shall be effective no earlier than the first day of the month in which the 30-day period begins. A “period of 30 days” is defined as being from 12 a.m. of the day of admission to the medical institution, and ending no earlier than 12 midnight of the thirtieth day following the beginning of the period.

(1) A person who enters a medical institution and who dies prior to completion of the 30-day period shall be considered to meet the 30-day period provision.

(2) Only one 30-day period is required to establish eligibility during a continuous stay in a medical institution. Discharge during a subsequent month, creating a partial month of care, does not affect eligibility for that partial month regardless of whether the eligibility determination was completed prior to discharge.

(3) A temporary absence of not more than 14 full consecutive days during which the person remains under the jurisdiction of the institution does not interrupt the 30-day period. In order to remain “under the jurisdiction of the institution” a person must first have been physically admitted to the institution.

75.1(8) *Certain persons essential to the welfare of Title XVI beneficiaries.* Medical assistance will be available to the person living with and essential to the welfare of a Title XIX beneficiary provided the essential person was eligible for medical assistance as of December 31, 1973. The person will continue to be eligible for medical assistance as long as the person continues to meet the definition of “essential person” in effect in the public assistance program on December 31, 1973.

75.1(9) *Individuals receiving state supplemental assistance.* Medical assistance shall be available to all recipients of state supplemental assistance as authorized by Iowa Code chapter 249.

75.1(10) *Individuals under age 21 living in a licensed foster care facility or in a private home pursuant to a subsidized adoption arrangement for whom the department has financial responsibility in whole or in part.* When Iowa is responsible for foster care payment for a child pursuant to Iowa Code section 234.35 and rule 441—156.20(234) or has negotiated an adoption assistance agreement for a child pursuant to rule 441—201.5(600), medical assistance shall be available to the child if:

a. The child lives in Iowa and is not otherwise eligible under a category for which federal financial participation is available; or

b. The child lives in another state and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the federal Social Security Act, notwithstanding the residency requirements of 441—75.10(249A) and 441—75.53(249A).

75.1(11) *Individuals living in a court-approved subsidized guardianship home for whom the department has financial responsibility in whole or in part.* When Iowa is responsible for a subsidized guardianship payment for a child pursuant to 441—Chapter 204, medical assistance will be available to the child under this subrule if the child is living in a court-approved subsidized guardianship home and either:

a. The child lives in Iowa and is not eligible for medical assistance under a category for which federal financial participation is available due to reasons other than:

(1) Failure to provide information, or

(2) Failure to comply with other procedural requirements; or

b. Notwithstanding the residency requirements of 441—75.10(249A) and 441—75.53(249A), the child lives in another state and is not eligible for benefits from the other state pursuant to a program funded under Title XIX of the federal Social Security Act due to reasons other than:

- (1) Failure to provide information, or
- (2) Failure to comply with other procedural requirements.

75.1(12) *Persons ineligible due to October 1, 1972, social security increase.* Medical assistance will be available to individuals and families whose assistance grants were canceled as a result of the increase in social security benefits October 1, 1972, as long as these individuals and families would be eligible for an assistance grant if the increase were not considered.

75.1(13) *Persons who would be eligible for supplemental security income or state supplementary assistance but for social security cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions:

- a. They were entitled to and received concurrently in any month after April 1977 supplemental security income and social security or state supplementary assistance and social security, and
- b. They subsequently lost eligibility for supplemental security income or state supplementary assistance, and
- c. They would be eligible for supplemental security income or state supplementary assistance if all of the social security cost-of-living increases which they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and supplemental security income (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

75.1(14) *Family medical assistance program (FMAP).* Medicaid shall be available to children who meet the provisions of rule 441—75.54(249A) and to the children's specified relatives who meet the provisions of subrule 75.54(2) and rule 441—75.55(249A) if the following criteria are met.

- a. In establishing eligibility of specified relatives for this coverage group, resources are considered in accordance with the provisions of rule 441—75.56(249A) and shall not exceed \$2,000 for applicant households or \$5,000 for member households. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded.
- b. Income is considered in accordance with rule 441—75.57(249A) and does not exceed needs standards established in rule 441—75.58(249A).
- c. Rescinded IAB 11/1/00, effective 1/1/01.

75.1(15) *Child medical assistance program (CMAP).* Medicaid shall be available to persons under the age of 21 if the following criteria are met:

a. Financial eligibility shall be determined for the family size of which the child is a member using the income standards in effect for the family medical assistance program (FMAP) unless otherwise specified. Income shall be considered as provided in rule 441—75.57(249A). Additionally, the earned income disregards as provided in paragraphs 75.57(2) "a," "b," "c," and "d" shall be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with paragraph 75.58(1) "a" but who are not eligible for Medicaid. Resources of all persons in the eligible group, regardless of age, shall be disregarded. Unless a family member is voluntarily excluded in accordance with the provisions of rule 441—75.59(249A), family size shall be determined as follows:

(1) If the person under the age of 21 is pregnant and the pregnancy has been verified in accordance with rule 441—75.17(249A), the unborn child (or children if more than one) is considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the pregnant individual.

(3) Unless otherwise specified, when the person under the age of 21 is living with a parent(s), the family size shall consist of all family members as defined by the family medical assistance program in accordance with paragraph 75.57(8) "c" and subrule 75.58(1).

Application for Medicaid shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s') home as defined in subrule 75.53(4). If the person under the age of 21 is married or has been married, the needs, income and resources of the person's parent(s) and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) Siblings under the age of 21 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this rule unless one sibling is married or has been married, in which case, the married sibling shall be considered separately unless the marriage was annulled.

(6) When a person is residing in a household in which some members are receiving FMAP under the provisions of subrule 75.1(14) or MAC under the provisions of subrule 75.1(28), and when the person is not included in the FMAP or MAC eligible group, the family size shall consist of the person and all other family members as defined above except those in the FMAP or MAC eligible group.

b. Rescinded IAB 9/6/89, effective 11/1/89.

c. Rescinded IAB 11/1/89, effective 1/1/90.

d. A person is eligible for the entire month in which the person's twenty-first birthday occurs unless the birthday falls on the first day of the month.

e. Living with a specified relative as provided in subrule 75.54(2) shall not be considered when determining eligibility for persons under this coverage group.

75.1(16) *Children receiving subsidized adoption payments from states providing reciprocal medical assistance benefits.* Medical assistance shall be available to children under the age of 21 for whom an adoption assistance agreement with another state is in effect if all of the following conditions are met:

a. The child is residing in Iowa in a private home with the child's adoptive parent or parents.

b. Benefits funded under Title IV-E of the Social Security Act are not being paid for the child by any state.

c. Another state currently has an adoption assistance agreement in effect for the child.

d. The state with the adoption assistance agreement:

(1) Is a member of the interstate compact on adoption and medical assistance (ICAMA); and

(2) Provides medical assistance benefits pursuant to a program funded under Title XIX of the Social Security Act, under the optional group at Section 1902(a)(10)(A)(ii)(VIII) of the Act, to children residing in that state (at least until age 18) for whom there is a state adoption assistance agreement in effect with the state of Iowa other than under Title IV-E of the Social Security Act.

75.1(17) *Persons who meet the income and resource requirements of the cash assistance programs.* Medicaid shall be available to the following persons who meet the income and resource guidelines of supplemental security income or refugee cash assistance, but who are not receiving cash assistance:

a. Aged and blind persons, as defined at subrule 75.13(2).

b. Disabled persons, as defined at rule 441—75.20(249A).

In establishing eligibility for children for this coverage group based on eligibility for SSI, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2) or as under refugee cash assistance.

75.1(18) *Persons eligible for waiver services.* Medicaid shall be available to recipients of waiver services as defined in 441—Chapter 83.

75.1(19) *Persons and families terminated from aid to dependent children (ADC) prior to April 1, 1990, due to discontinuance of the \$30 or the \$30 and one-third earned income disregards.* Rescinded IAB 6/12/91, effective 8/1/91.

75.1(20) *Newborn children.* Medicaid shall be available without an application to newborn children of women who are determined eligible for Medicaid for the month of the child's birth or for three-day emergency services for labor and delivery for the child's birth. Effective April 1, 2009, eligibility begins

with the month of the birth and continues through the month of the first birthday as long as the child remains an Iowa resident.

a. The department shall accept any written or verbal statement as verification of the newborn's birth date unless the birth date is questionable.

b. In order for Medicaid to continue after the month of the first birthday, a redetermination of eligibility shall be completed.

75.1(21) *Persons and families ineligible for the family medical assistance program (FMAP) in whole or in part because of child or spousal support.* Medicaid shall be available for an additional four months to persons and families who become ineligible for FMAP because of income from child support, alimony, or contributions from a spouse if the person or family member received FMAP in at least three of the six months immediately preceding the month of cancellation.

a. The four months of extended Medicaid coverage begin the day following termination of FMAP eligibility.

b. When ineligibility is determined to occur retroactively, the extended Medicaid coverage begins with the first month in which FMAP eligibility was erroneously granted.

c. Rescinded IAB 10/11/95, effective 10/1/95.

75.1(22) *Refugee spenddown participants.* Rescinded IAB 10/11/95, effective 10/1/95.

75.1(23) *Persons who would be eligible for supplemental security income or state supplementary assistance but for increases in social security benefits because of elimination of the actuarial reduction formula and cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions. They:

a. Were eligible for a social security benefit in December of 1983.

b. Were eligible for and received a widow's or widower's disability benefit and supplemental security income or state supplementary assistance for January of 1984.

c. Became ineligible for supplemental security income or state supplementary assistance because of an increase in their widow's or widower's benefit which resulted from the elimination of the reduction factor in the first month in which the increase was paid and in which a retroactive payment of that increase for prior months was not made.

d. Have been continuously eligible for a widow's or widower's benefit from the first month the increase was received.

e. Would be eligible for supplemental security income or state supplementary assistance benefits if the amount of the increase from elimination of the reduction factor and any subsequent cost-of-living adjustments were disregarded.

f. Submit an application prior to July 1, 1988, on Form 470-0442, Application for Medical Assistance or State Supplementary Assistance.

75.1(24) *Postpartum eligibility for pregnant women.* Medicaid shall continue to be available, without an application, for 60 days beginning with the last day of pregnancy and throughout the remaining days of the month in which the 60-day period ends, to a woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for Medicaid for the month in which the pregnancy ended.

a. Postpartum Medicaid shall only be available to a woman who is not eligible for another coverage group after the pregnancy ends.

b. The woman shall not be required to meet any income or resource criteria during the postpartum period.

c. When the sixtieth day is not on the last day of the month the woman shall be eligible for Medicaid for the entire month.

75.1(25) *Persons who would be eligible for supplemental security income or state supplementary assistance except that they receive child's social security benefits based on disability.* Medical assistance shall be available to persons who receive supplemental security income (SSI) or state supplementary assistance (SSA) after their eighteenth birthday because of a disability or blindness which began before age 22 and who would continue to receive SSI or SSA except that they become entitled to or receive an increase in social security benefits from a parent's account.

75.1(26) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(27) *Widows and widowers who are no longer eligible for supplemental security income or state supplementary assistance because of the receipt of social security benefits.* Medicaid shall be available to widows and widowers who meet the following conditions:

a. They have applied for and received or were considered recipients of supplemental security income or state supplementary assistance.

b. They apply for and receive Title II widow's or widower's insurance benefits or any other Title II old age or survivor's benefits, if eligible for widow's or widower's benefits.

c. Rescinded IAB 5/1/91, effective 4/11/91.

d. They were not entitled to Part A Medicare hospital insurance benefits at the time of application and receipt of Title II old age or survivor's benefits. They are not currently entitled to Part A Medicare hospital insurance benefits.

e. They are no longer eligible for supplemental security income or state supplementary assistance solely because of the receipt of their social security benefits.

75.1(28) *Pregnant women, infants and children (Mothers and Children (MAC)).* Medicaid shall be available to all pregnant women, infants (under one year of age) and children who have not attained the age of 19 if the following criteria are met:

a. Income.

(1) Family income shall not exceed 300 percent of the federal poverty level for pregnant women and for infants (under one year of age). Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained 19 years of age. Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. "Family income" is the income remaining after disregards and deductions have been applied as provided in rule 441—75.57(249A).

(2) Moneys received as a lump sum, except as specified in subrules 75.56(4) and 75.56(7) and paragraphs 75.57(8) "b" and "c," shall be treated in accordance with paragraphs 75.57(9) "b" and "c."

(3) Unless otherwise specified, when the person under the age of 19 is living with a parent or parents, the family size shall consist of all family members as defined by the family medical assistance program.

Application for Medicaid shall be made by the parents when the person is residing with them. A person shall be considered to be living with the parents when the person is temporarily absent from the parent's home as defined in subrule 75.53(4). If the person under the age of 19 is married or has been married, the needs, income and resources of the person's parents and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person under the age of 19 is living with a spouse, the family size shall consist of that person, the spouse, and any of their children.

(5) Siblings under the age of 19 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this subrule unless one sibling is married or has been married, in which case the married sibling shall be considered separately unless the marriage was annulled.

b. For pregnant women, resources shall not exceed \$10,000 per household. In establishing eligibility for infants and children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for pregnant women for this coverage group, resources shall be considered in accordance with department of public health 641—subrule 75.4(2).

c. Rescinded IAB 9/6/89, effective 11/1/89.

d. Eligibility for pregnant women under this rule shall begin no earlier than the first day of the month in which conception occurred and in accordance with 441—76.5(249A).

e. The unborn child (children if more than one fetus exists) shall be considered when determining the number of persons in the household.

f. An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month of the nineteenth birthday unless the birthday falls on the first day of the month.

g. Rescinded IAB 11/1/89, effective 1/1/90.

h. When determining eligibility under this coverage group, living with a specified relative as specified at subrule 75.54(2) and the student provisions specified in subrule 75.54(1) do not apply.

i. A woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for assistance under this coverage group for the month in which her pregnancy ended shall be entitled to receive Medicaid through the postpartum period in accordance with subrule 75.1(24).

j. If an infant loses eligibility under this coverage group at the time of the first birthday due to an inability to meet the income limit for children or if a child loses eligibility at the time of the nineteenth birthday, but the infant or child is receiving inpatient services in a medical institution, Medicaid shall continue under this coverage group for the duration of the time continuous inpatient services are provided.

75.1(29) *Persons who are entitled to hospital insurance benefits under Part A of Medicare (Qualified Medicare Beneficiary program).* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part A and B premiums, coinsurance and deductibles, providing the following conditions are met:

a. The person's monthly income does not exceed 100 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(1) The amount of income shall be determined as under the federal Supplemental Security Income (SSI) program.

(2) Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.

b. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits. The amount of resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4).

c. The effective date of eligibility is the first of the month after the month of decision.

75.1(30) *Presumptive eligibility for pregnant women.* A pregnant woman who is determined by a qualified provider to be presumptively eligible for Medicaid, based only on her statements regarding family income, shall be eligible for ambulatory prenatal care. Eligibility shall continue until the last day of the month following the month of the presumptive eligibility determination unless the pregnant woman is determined to be ineligible for Medicaid during this period based on a Medicaid application filed either before the presumptive eligibility determination or during this period. In this case, presumptive eligibility shall end on the date Medicaid ineligibility is determined. A pregnant woman who files a Medicaid application but withdraws that application before eligibility is determined has not been determined ineligible for Medicaid. The pregnant woman shall complete Form 470-2927 or 470-2927(S), Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. The qualified provider shall complete Form 470-2629, Presumptive Medicaid Income Calculation, in order to establish that the pregnant woman's family income is within the prescribed limits of the Medicaid program.

If the pregnant woman files a Medicaid application in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, Medicaid shall continue until a decision of ineligibility is made on the application. Payment of claims for ambulatory prenatal care services provided to a pregnant woman under this subrule is not dependent upon a finding of Medicaid eligibility for the pregnant woman.

a. A qualified provider is defined as a provider who is eligible for payment under the Medicaid program and who meets all of the following criteria:

(1) Provides one or more of the following services:

1. Outpatient hospital services.
2. Rural health clinic services (if contained in the state plan).
3. Clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician.

(2) Has been specifically designated by the department in writing as a qualified provider for the purposes of determining presumptive eligibility on the basis of the department's determination that the provider is capable of making a presumptive eligibility determination based on family income.

(3) Meets one of the following:

1. Receives funds under the Migrant Health Centers or Community Health Centers (subsection 329 or subsection 330 of the Public Health Service Act) or the Maternal and Child Health Services Block Grant Programs (Title V of the Social Security Act) or the Health Services for Urban Indians Program (Title V of the Indian Health Care Improvement Act).

2. Participates in the program established under the Special Supplemental Food Program for Women, Infants, and Children (subsection 17 of the Child Nutrition Act of 1966) or the Commodity Supplemental Food Program (subsection 4(a) of the Agriculture and Consumer Protection Act of 1973).

3. Participates in a state perinatal program.

4. Is an Indian health service office or a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act.

b. The provider shall complete Form 470-2579, Application for Authorization to Make Presumptive Medicaid Eligibility Determinations, and submit it to the department for approval in order to become certified as a provider qualified to make presumptive eligibility determinations. Once the provider has been approved as a provider qualified to make presumptive Medicaid eligibility determinations, Form 470-2582, Memorandum of Understanding Between the Iowa Department of Human Services and a Qualified Provider, shall be signed by the provider and the department.

c. Once the qualified provider has made a presumptive eligibility determination for a pregnant woman, the provider shall:

(1) Contact the department to obtain a state identification number for the pregnant woman who has been determined presumptively eligible.

(2) Notify the department in writing of the determination within five working days after the date the presumptive determination is made. A copy of the Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580 or 470-2580(S), shall be used for this purpose.

(3) Inform the pregnant woman in writing, at the time the determination is made, that if she chose not to apply for Medicaid on the Health Services Application, Form 470-2927 or 470-2927(S), she has until the last day of the month following the month of the preliminary determination to file an application with the department. A Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580, shall be issued by the qualified provider for this purpose.

(4) Forward copies of the Health Services Application, Form 470-2927 or 470-2927(S), to the appropriate offices for eligibility determinations if the pregnant woman indicated on the application that she was applying for any of the other programs listed on the application. These copies shall be forwarded within two working days from the date of the presumptive determination.

d. In the event that a pregnant woman needing prenatal care does not appear to be presumptively eligible, the qualified provider shall inform the pregnant woman that she may file an application at the local department office if she wishes to have a formal determination made.

e. Presumptive eligibility shall end under any of the following conditions:

(1) The woman fails to file an application for Medicaid in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination.

(2) The woman files a Medicaid application by the last day of the month following the month of the presumptive eligibility determination and has been found ineligible for Medicaid.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

f. The adequate and timely notice requirements and appeal rights associated with an application that is filed pursuant to rule 441—76.1(249A) shall apply to an eligibility determination made on the Medicaid application. However, notice requirements and appeal rights of the Medicaid program shall not apply to a woman who is:

(1) Issued a presumptive eligibility decision by a qualified provider.

(2) Determined to be presumptively eligible by a qualified provider and whose presumptive eligibility ends because the woman fails to file an application by the last day of the month following the month of the initial presumptive eligibility determination.

(3) Rescinded IAB 5/1/91, effective 7/1/91.

g. A woman shall not be determined to be presumptively eligible for Medicaid more than once per pregnancy.

75.1(31) *Persons and families canceled from the family medical assistance program (FMAP) due to the increased earnings of the specified relative in the eligible group.* Medicaid shall be available for a period of up to 12 additional months to families who are canceled from FMAP as provided in subrule 75.1(14) because the specified relative of a dependent child receives increased income from employment.

For the purposes of this subrule, “family” shall mean individuals living in the household whose needs and income were included in determining the FMAP eligibility of the household members at the time that the FMAP benefits were terminated. “Family” also includes those individuals whose needs and income would be taken into account in determining the FMAP eligibility of household members if the household were applying in the current month.

a. Increased income from employment includes:

(1) Beginning employment.

(2) Increased rate of pay.

(3) Increased hours of employment.

b. In order to receive transitional Medicaid coverage under these provisions, an FMAP family must have received FMAP during at least three of the six months immediately preceding the month in which ineligibility occurred.

c. The 12 months’ Medicaid transitional coverage begins the day following termination of FMAP eligibility.

d. When ineligibility is determined to occur retroactively, the transitional Medicaid coverage begins with the first month in which FMAP eligibility was erroneously granted, unless the provisions of paragraph “*f*” below apply.

e. Rescinded IAB 8/12/98, effective 10/1/98.

f. Transitional Medicaid shall not be allowed under these provisions when it has been determined that the member received FMAP in any of the six months immediately preceding the month of cancellation as the result of fraud. Fraud shall be defined in accordance with Iowa Code Supplement section 239B.14.

g. During the transitional Medicaid period, assistance shall be terminated at the end of the first month in which the eligible group ceases to include a child, as defined by the family medical assistance program.

h. If the family receives transitional Medicaid coverage during the entire initial six-month period and the department has received, by the twenty-first day of the fourth month, a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), Medicaid shall continue for an additional six months, subject to paragraphs “*g*” and “*i*” of this subrule.

(1) If the department does not receive a completed form by the twenty-first day of the fourth month, assistance shall be canceled.

(2) A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1)“*f*” and 75.57(2)“*l*.”

i. Medicaid shall end at the close of the first or fourth month of the additional six-month period if any of the following conditions exists:

(1) The department does not receive a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), by the twenty-first day of the first month or the fourth month of the additional

six-month period as required in paragraph 75.1(31)“h,” unless the family establishes good cause for failure to report on a timely basis. Good cause shall be established when the family demonstrates that one or more of the following conditions exist:

1. There was a serious illness or death of someone in the family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. The family offers a good cause beyond the family’s control.
4. There was a failure to receive the department’s notification for a reason not attributable to the family. Lack of a forwarding address is attributable to the family.

(2) The specified relative had no earnings in one or more of the previous three months, unless the lack of earnings was due to an involuntary loss of employment, illness, or there were instances when problems could negatively impact the client’s achievement of self-sufficiency as described at 441—subrule 93.133(4).

(3) It is determined that the family’s average gross earned income, minus child care expenses for the children in the eligible group necessary for the employment of the specified relative, during the immediately preceding three-month period exceeds 185 percent of the federal poverty level as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

j. These provisions apply to specified relatives defined at paragraph 75.55(1)“a,” including:

(1) Any parent who is in the home. This includes parents who are included in the eligible group as well as those who are not.

(2) A stepparent who is included in the eligible group and who has assumed the role of the caretaker relative due to the absence or incapacity of the parent.

(3) A needy specified relative who is included in the eligible group.

k. The timely notice requirements as provided in 441—subrule 76.4(1) shall not apply when it is determined that the family failed to meet the eligibility criteria specified in paragraph “g” or “i” above. Transitional Medicaid shall be terminated beginning with the first month following the month in which the family no longer met the eligibility criteria. An adequate notice shall be provided to the family when any adverse action is taken.

75.1(32) *Persons and families terminated from refugee cash assistance (RCA) because of income earned from employment.* Refugee medical assistance (RMA) shall be available as long as the eight-month limit for the refugee program is not exceeded to persons who are receiving RMA and who are canceled from the RCA program solely because a member of the eligible group receives income from employment.

a. An RCA recipient shall not be required to meet any minimum program participation time frames in order to receive RMA coverage under these provisions.

b. A person who returns to the home after the family became ineligible for RCA may be included in the eligible group for RMA coverage if the person was included on the assistance grant the month the family became ineligible for RCA.

75.1(33) *Qualified disabled and working persons.* Medicaid shall be available to cover the cost of the premium for Part A of Medicare (hospital insurance benefits) for qualified disabled and working persons.

a. Qualified disabled and working persons are persons who meet the following requirements:

(1) The person’s monthly income does not exceed 200 percent of the federal poverty level applicable to the family size involved.

(2) The person’s resources do not exceed twice the maximum amount allowed under the supplemental security income (SSI) program.

(3) The person is not eligible for any other Medicaid benefits.

(4) The person is entitled to enroll in Medicare Part A of Title XVIII under Section 1818A of the Social Security Act (as added by Section 6012 of OBRA 1989).

b. The amount of the person’s income and resources shall be determined as under the SSI program.

75.1(34) Specified low-income Medicare beneficiaries. Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part B premium, provided the following conditions are met:

a. The person's monthly income exceeds 100 percent of the federal poverty level but is less than 120 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

b. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits.

c. The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.

d. The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

75.1(35) Medically needy persons.

a. Coverage groups. Subject to other requirements of this chapter, Medicaid shall be available to the following persons:

(1) Pregnant women. Pregnant women who would be eligible for FMAP-related coverage groups except for excess income or resources. For FMAP-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were born and living with them.

(2) FMAP-related persons under the age of 19. Persons under the age of 19 who would be eligible for an FMAP-related coverage group except for excess income.

(3) CMAP-related persons under the age of 21. Persons under the age of 21 who would be eligible in accordance with subrule 75.1(15) except for excess income.

(4) SSI-related persons. Persons who would be eligible for SSI except for excess income or resources.

(5) FMAP-specified relatives. Persons whose income or resources exceed the family medical assistance program's limit and who are a specified relative as defined at subrule 75.55(1) living with a child who is determined dependent.

b. Resources and income of all persons considered.

(1) Resources of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35) "b"(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility of adults. Resources of all specified relatives and of all potentially eligible individuals living together shall be disregarded in determining eligibility of children. Income of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35) "b"(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility.

(2) The amount of income of the responsible relative that has been counted as available to an FMAP household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

(3) The resource determination shall be according to subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

c. Resources.

(1) The resource limit for adults in SSI-related households shall be \$10,000 per household.

(2) Disposal of resources for less than fair market value by SSI-related applicants or members shall be treated according to policies specified in rule 441—75.23(249A).

(3) The resource limit for FMAP- or CMAP-related adults shall be \$10,000 per household. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered according to department of public health 641—subrule 75.4(2).

(4) The resources of SSI-related persons shall be treated according to SSI policies.

(5) When a resource is jointly owned by SSI-related persons and FMAP-related persons, the resource shall be treated according to SSI policies for the SSI-related person and according to FMAP policies for the FMAP-related persons.

d. Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and continuing eligibility.

(1) Income policies specified in subrules 75.57(1) through 75.57(8) and paragraphs 75.57(9) “b,” “c,” “g,” “h,” and “i” regarding treatment of earned and unearned income are applied to FMAP-related and CMAP-related persons when determining initial eligibility and for determining continuing eligibility unless otherwise specified. The three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply to medically needy persons.

(2) Income policies as specified in federal SSI regulations regarding treatment of earned and unearned income are applied to SSI-related persons when determining initial and continuing eligibility.

(3) The monthly income shall be determined prospectively unless actual income is available.

(4) The income for the certification period shall be determined by adding both months’ net income together to arrive at a total.

(5) The income for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

e. Medically needy income level (MNIL).

(1) The MNIL is based on 133 1/3 percent of the schedule of basic needs, as provided in subrule 75.58(2), with households of one treated as households of two, as follows:

Number of Persons	1	2	3	4	5	6	7	8	9	10
MNIL	\$483	\$483	\$566	\$666	\$733	\$816	\$891	\$975	\$1058	\$1158

Each additional person \$116

(2) When determining household size for the MNIL, all potential eligibles and all individuals whose income is considered as specified in paragraph 75.1(35) “b” shall be included unless the person has been excluded according to the provisions of rule 441—75.59(249A).

(3) The MNIL for the certification period shall be determined by adding both months’ MNIL to arrive at a total.

The MNIL for the retroactive certification period shall be determined by adding each month of the retroactive period to arrive at a total.

(4) The total net countable income for the certification period shall be compared to the total MNIL for the certification period based on family size as specified in subparagraph (2).

If the total countable net income is equal to or less than the total MNIL, the medically needy individuals shall be eligible for Medicaid.

If the total countable net income exceeds the total MNIL, the medically needy individuals shall not be eligible for Medicaid unless incurred medical expenses equal or exceed the difference between the net income and the MNIL.

(5) Effective date of approval. Eligibility during the certification period or the retroactive certification period shall be effective as of the first day of the first month of the certification period or the retroactive certification period when the medically needy income level (MNIL) is met.

f. Verification of medical expenses to be used in spenddown calculation. The applicant or member shall submit evidence of medical expenses that are for noncovered Medicaid services and for covered services incurred prior to the certification period to the department on a claim form, which shall be completed by the medical provider. In cases where the provider is uncooperative or where returning to the provider would constitute an unreasonable requirement on the applicant or member, the form shall be completed by the worker. Verification of medical expenses for the applicant or member that are covered Medicaid services and occurred during the certification period shall be submitted by the provider to the Iowa Medicaid enterprise on a claim form. The applicant or member shall inform the

provider of the applicant's or member's spenddown obligation at the time services are rendered or at the time the applicant or member receives notification of a spenddown obligation. Verification of allowable expenses incurred for transportation to receive medical care as specified in rule 441—78.13(249A) shall be verified on Form 470-0394, Medical Transportation Claim.

Applicants who have not established that they met spenddown in the current certification period shall be allowed 12 months following the end of the certification period to submit medical expenses for that period or 12 months following the date of the notice of decision when the certification period had ended prior to the notice of decision.

g. Spenddown calculation.

(1) Medical expenses that are incurred during the certification period may be used to meet spenddown. Medical expenses incurred prior to a certification period shall be used to meet spenddown if not already used to meet spenddown in a previous certification period and if all of the following requirements are met. The expenses:

1. Remain unpaid as of the first day of the certification period.
2. Are not Medicaid-payable in a previous certification period or the retroactive certification period.
3. Are not incurred during any prior certification period with the exception of the retroactive period in which the person was conditionally eligible but did not meet spenddown.

Notwithstanding numbered paragraphs “1” through “3” above, paid medical expenses from the retroactive period can be used to meet spenddown in the retroactive period or in the certification period for the two months immediately following the retroactive period.

(2) Order of deduction. Spenddown shall be adjusted when a bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a bill for a covered service incurred prior to the certification period is subsequently received. Spenddown shall also be adjusted when a bill for a noncovered Medicaid service is subsequently received with a service date prior to the Medicaid-covered service. Spenddown shall be adjusted when an unpaid bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a paid bill for a covered service incurred in the certification period is subsequently received with a service date prior to the date of the notice of spenddown status.

If spenddown has been met and a bill is received with a service date after spenddown has been met, the bill shall not be deducted to meet spenddown.

Incurred medical expenses, including those reimbursed by a state or political subdivision program other than Medicaid, but excluding those otherwise subject to payment by a third party, shall be deducted in the following order:

1. Medicare and other health insurance premiums, deductibles, or coinsurance charges.

EXCEPTION: When some of the household members are eligible for full Medicaid benefits under the Health Insurance Premium Payment Program (HIPP), as provided in rule 441—75.21(249A), the health insurance premium shall not be allowed as a deduction to meet the spenddown obligation of those persons in the household in the medically needy coverage group.

2. An average statewide monthly standard deduction for the cost of medically necessary personal care services provided in a licensed residential care facility shall be allowed as a deduction for spenddown. These personal care services include assistance with activities of daily living such as preparation of a special diet, personal hygiene and bathing, dressing, ambulation, toilet use, transferring, eating, and managing medication.

The average statewide monthly standard deduction for personal care services shall be based on the average per day rate of health care costs associated with residential care facilities participating in the state supplementary assistance program for a 30.4-day month as computed in the Compilation of Various Costs and Statistical Data (Category: All; Type of Care: Residential Care Facility; Location: All; Type of Control: All). The average statewide standard deduction for personal care services used in the medically needy program shall be updated and effective the first day of the first month beginning two full months after the release of the Compilation of Various Costs and Statistical Data for the previous fiscal year.

3. Medical expenses for necessary medical and remedial services that are recognized under state law but not covered by Medicaid, chronologically by date of submission.

4. Medical expenses for acupuncture, chronologically by date of submission.

5. Medical expenses for necessary medical and remedial services that are covered by Medicaid, chronologically by date of submission.

(3) When incurred medical expenses have reduced income to the applicable MNIL, the individuals shall be eligible for Medicaid.

(4) Medical expenses reimbursed by a public program other than Medicaid prior to the certification period shall not be considered a medical deduction.

h. Medicaid services. Persons eligible for Medicaid as medically needy will be eligible for all services covered by Medicaid except:

(1) Care in a nursing facility or an intermediate care facility for the mentally retarded.

(2) Care in an institution for mental disease.

(3) Care in a Medicare-certified skilled nursing facility.

i. Reviews. Reviews of eligibility shall be made for SSI-related, CMAP-related, and FMAP-related medically needy members with a zero spenddown as often as circumstances indicate but in no instance shall the period of time between reviews exceed 12 months.

SSI-related, CMAP-related, and FMAP-related medically needy persons shall complete Form 470-3118 or 470-3118(S), Medicaid Review, as part of the review process when requested to do so by the department.

j. Redetermination. When an SSI-related, CMAP-related, or FMAP-related member who has had ongoing eligibility because of a zero spenddown has income that exceeds the MNIL, a redetermination of eligibility shall be completed to change the member's eligibility to a two-month certification with spenddown. This redetermination shall be effective the month the income exceeds the MNIL or the first month following timely notice.

(1) The Health Services Application, Form 470-2927 or 470-2927(S), or the Health and Financial Support Application, Form 470-0462 or Form 470-0466(Spanish), shall be used to determine eligibility for SSI-related medically needy when an SSI recipient has been determined to be ineligible for SSI due to excess income or resources in one or more of the months after the effective date of the SSI eligibility decision.

(2) All eligibility factors shall be reviewed on redeterminations of eligibility.

k. Recertifications. A new application shall be made when the certification period has expired and there has been a break in assistance as defined at rule 441—75.25(249A). When the certification period has expired and there has not been a break in assistance, the person shall use the Medicaid Review, Form 470-3118 or 470-3118(S), to be recertified.

l. Disability determinations. An applicant receiving social security disability benefits under Title II of the Social Security Act or railroad retirement benefits based on the Social Security Act definition of disability by the Railroad Retirement Board shall be deemed disabled without any further determination. In other cases under the medically needy program, the department shall conduct an independent determination of disability unless the applicant has been denied supplemental security income benefits based on lack of disability and does not allege either (1) a disabling condition different from or in addition to that considered by the Social Security Administration, or (2) that the applicant's condition has changed or deteriorated since the most recent Social Security Administration determination.

(1) In conducting an independent determination of disability, the department shall use the same criteria required by federal law to be used by the Social Security Administration of the United States Department of Health and Human Services in determining disability for purposes of Supplemental Security Income under Title XVI of the Social Security Act. The disability determination services bureau of the division of vocational rehabilitation shall make the initial disability determination on behalf of the department.

(2) For an independent determination of disability, the applicant or the applicant's authorized representative shall complete, sign and submit Form 470-4459 or 470-4459(S), Authorization to Disclose Information to the Department of Human Services, and either:

1. Form 470-2465, Disability Report for Adults, if the applicant is aged 18 or over; or
2. Form 470-3912, Disability Report for Children, if the applicant is under the age of 18.
- (3) In connection with any independent determination of disability, the department shall determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility. When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms as required in subparagraph (2).

75.1(36) Expanded specified low-income Medicare beneficiaries. As long as 100 percent federal funding is available under the federal Qualified Individuals (QI) Program, Medicaid benefits to cover the cost of the Medicare Part B premium shall be available to persons who are entitled to Medicare Part A provided the following conditions are met:

- a. The person is not otherwise eligible for Medicaid.
- b. The person's monthly income is at least 120 percent of the federal poverty level but is less than 135 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.
- c. The person's resources do not exceed the maximum amount of resources that a person may have to obtain the full low-income subsidy for Medicare Part D drug benefits.
- d. The amount of the income and resources shall be determined the same as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.
- e. The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

75.1(37) Home health specified low-income Medicare beneficiaries. Rescinded IAB 10/30/02, effective 1/1/03.

75.1(38) Continued Medicaid for disabled children from August 22, 1996. Medical assistance shall be available to persons who were receiving SSI as of August 22, 1996, and who would continue to be eligible for SSI but for Section 211(a) of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

75.1(39) Working persons with disabilities.

- a. Medical assistance shall be available to all persons who meet all of the following conditions:
 - (1) They are disabled as determined pursuant to rule 441—75.20(249A), except that being engaged in substantial gainful activity will not preclude a determination of disability.
 - (2) They are less than 65 years of age.
 - (3) They are members of families (including families of one) whose income is less than 250 percent of the most recently revised official federal poverty level for the family. Family income shall include gross income of all family members, less supplemental security income program disregards, exemptions, and exclusions, including the earned income disregards. However, income attributable to a social security cost-of-living adjustment shall be included only in determining eligibility based on a subsequently published federal poverty level.
 - (4) They receive earned income from employment or self-employment or are eligible under paragraph 75.1(39)“c.”
 - (5) They would be eligible for medical assistance under another coverage group set out in this rule (other than the medically needy coverage groups at subrule 75.1(35)), disregarding all income, up to \$10,000 of available resources, and any additional resources held by the disabled individual in a retirement account, a medical savings account, or an assistive technology account. For this purpose, disability shall be determined as under subparagraph 75.1(39)“a”(1) above.
 - (6) They have paid any premium assessed under paragraph 75.1(39)“b” below.
- b. Eligibility for a person whose gross income is greater than 150 percent of the federal poverty level for an individual is conditional upon payment of a premium. Gross income includes all earned and unearned income of the conditionally eligible person, except that income attributable to a social

security cost-of-living adjustment shall be included only in determining premium liability based on a subsequently published federal poverty level. A monthly premium shall be assessed at the time of application and at the annual review. The premium amounts and the federal poverty level increments above 150 percent of the federal poverty level used to assess premiums will be adjusted annually on August 1.

(1) Beginning with the month of application, the monthly premium amount shall be established based on projected average monthly income. The monthly premium established shall not be increased for any reason before the next eligibility review. The premium shall not be reduced due to a change in the federal poverty level but may be reduced or eliminated prospectively before the next eligibility review if a reduction in projected average monthly income is verified.

(2) Eligible persons are required to complete and return Form 470-3118 or 470-3118(S), Medicaid Review, with income information during the twelfth month of the annual enrollment period to determine the premium to be assessed for the next 12-month enrollment period.

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$31
165% of Federal Poverty Level	\$42
180% of Federal Poverty Level	\$50
200% of Federal Poverty Level	\$58
225% of Federal Poverty Level	\$68
250% of Federal Poverty Level	\$78
300% of Federal Poverty Level	\$99
350% of Federal Poverty Level	\$119
400% of Federal Poverty Level	\$140
450% of Federal Poverty Level	\$160
550% of Federal Poverty Level	\$201
650% of Federal Poverty Level	\$242
750% of Federal Poverty Level	\$284
850% of Federal Poverty Level	\$335
1000% of Federal Poverty Level	\$404
1150% of Federal Poverty Level	\$475
1300% of Federal Poverty Level	\$556
1480% of Federal Poverty Level	\$647

(4) Eligibility is contingent upon the payment of any assessed premiums. Medical assistance eligibility shall not be made effective for a month until the premium assessed for the month is paid. The premium must be paid within three months of the month of coverage or of the month of initial billing, whichever is later, for the person to be eligible for the month.

(5) When the department notifies the applicant of the amount of the premiums, the applicant shall pay any premiums due as follows:

1. The premium for each month is due the fourteenth day of the month the premium is to cover. EXCEPTIONS: The premium for the month of initial billing is due the fourteenth day of the following month; premiums for any months prior to the month of initial billing are due on the fourteenth day of the third month following the month of billing.

2. If the fourteenth day falls on a weekend or a state holiday, payment is due the first working day following the holiday or weekend.

3. When any premium payment due in the month it is to cover is not received by the due date, Medicaid eligibility shall be canceled.

(6) Payments received shall be applied in the following order:

1. To the month in which the payment is received if the premium for the current calendar month is unpaid.

2. To the following month when the payment is received after a billing statement has been issued for the following month.

3. To prior months when a full payment has not been received. Payments shall be applied beginning with the most recent unpaid month before the current calendar month, then the oldest unpaid prior month and forward until all prior months have been paid.

4. When premiums for all months above have been paid, any excess shall be held and applied to any months for which eligibility is subsequently established, as specified in numbered paragraphs "1," "2," and "3" above, and then to future months when a premium becomes due.

5. Any excess on an inactive account shall be refunded to the client after two calendar months of inactivity or of a zero premium or upon request from the client.

(7) An individual's case may be reopened when Medicaid eligibility is canceled for nonpayment of premium. However, the full premium must be received by the department on or before the last day of the month following the month the premium is to cover.

(8) Premiums may be submitted in the form of money orders or personal checks to the address printed on the coupon attached to Form 470-3902, MEPD Billing Statement.

(9) Once an individual is canceled from Medicaid due to nonpayment of premiums, the individual must reapply to establish Medicaid eligibility unless the reopening provisions of this subrule apply.

(10) When a premium due in the month it is to cover is not received by the due date, a notice of decision will be issued to cancel Medicaid. The notice will include reopening provisions that apply if payment is received and appeal rights.

(11) Form 470-3902, MEPD Billing Statement, shall be used for billing and collection.

c. Members in this coverage group who become unable to work due to a change in their medical condition or who lose employment shall remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria under this subrule. Members shall submit Form 470-4856, MEPD Intent to Return to Work, to report on the end of their employment and their intent to return to employment.

d. For purposes of this subrule, the following definitions apply:

"Assistive technology" is the systematic application of technologies, engineering, methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, technology devices and assistive technology services.

"Assistive technology accounts" include funds in contracts, savings, trust or other financial accounts, financial instruments or other arrangements with a definite cash value set aside and designated for the purchase, lease or acquisition of assistive technology, assistive technology devices or assistive technology services. Assistive technology accounts must be held separate from other accounts and funds and must be used to purchase, lease or otherwise acquire assistive technology, assistive technology services or assistive technology devices for the working person with a disability when a physician, certified vocational rehabilitation counselor, licensed physical therapist, licensed speech therapist, or licensed occupational therapist has established the medical necessity of the device, technology, or service and determined the technology, device, or service can reasonably be expected to enhance the individual's employment.

"Assistive technology device" is any item, piece of equipment, product system or component part, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities or address or eliminate architectural, communication, or other barriers confronted by persons with disabilities.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device or other assistive technology. It

includes, but is not limited to, services referred to or described in the Assistive Technology Act of 1998, 29 U.S.C. 3002(4).

“Family,” if the individual is under 18 and unmarried, includes parents living with the individual, siblings under 18 and unmarried living with the individual, and children of the individual who live with the individual. If the individual is 18 years of age or older, or married, *“family”* includes the individual’s spouse living with the individual and any children living with the individual who are under 18 and unmarried. No other persons shall be considered members of an individual’s family. An individual living alone or with others not listed above shall be considered to be a family of one.

“Medical savings account” means an account exempt from federal income taxation pursuant to Section 220 of the United States Internal Revenue Code (26 U.S.C. § 220).

“Retirement account” means any retirement or pension fund or account, listed in Iowa Code section 627.6(8) *“f”* as exempt from execution, regardless of the amount of contribution, the interest generated, or the total amount in the fund or account.

75.1(40) *People who have been screened and found to need treatment for breast or cervical cancer:*

a. Medical assistance shall be available to people who:

(1) Have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and have been found to need treatment for either breast or cervical cancer (including a precancerous condition);

(2) Do not otherwise have creditable coverage, as that term is defined by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. Section 300gg(c)(1)), and are not eligible for medical assistance under Iowa Code section 249A.3(1); and

(3) Are under the age of 65.

b. Eligibility established under paragraph *“a”* continues until the person is:

(1) No longer receiving treatment for breast or cervical cancer;

(2) No longer under the age of 65; or

(3) Covered by creditable coverage or eligible for medical assistance under Iowa Code section 249A.3(1).

c. Presumptive eligibility. A person who has been screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act, who has been found to need treatment for either breast or cervical cancer (including a precancerous condition), and who is determined by a qualified provider to be presumptively eligible for medical assistance under paragraph *“a”* shall be eligible for medical assistance until the last day of the month following the month of the presumptive eligibility determination if no Medicaid application is filed in accordance with rule 441—76.1(249A) by that day or until the date of a decision on a Medicaid application filed in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, whichever is earlier.

The person shall complete Form 470-2927 or 470-2927(S), Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. Presumptive eligibility shall begin no earlier than the date the qualified Medicaid provider determines eligibility.

Payment of claims for services provided to a person under this paragraph is not dependent upon a finding of Medicaid eligibility for the person.

(1) A provider who is qualified to determine presumptive eligibility is defined as a provider who:

1. Is eligible for payment under the Medicaid program; and

2. Either:

- Has been named lead agency for a county or regional local breast and cervical cancer early detection program under a contract with the department of public health; or

- Has a cooperative agreement with the department of public health under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act to receive reimbursement for providing breast or cervical cancer

screening or diagnostic services to participants in the Care for Yourself Breast and Cervical Cancer Early Detection Program; and

3. Has made application and has been specifically designated by the department in writing as a qualified provider for the purpose of determining presumptive eligibility under this rule.

(2) The provider shall complete Form 470-3864, Application for Authorization to Make Presumptive Medicaid Eligibility Determinations (BCCT), and submit it to the department for approval in order to be designated as a provider qualified to make presumptive eligibility determinations. Once the department has approved the provider's application, the provider and the department shall sign Form 470-3865, Memorandum of Understanding with a Qualified Provider for People with Breast or Cervical Cancer Treatment. When both parties have signed the memorandum, the department shall designate the provider as a qualified provider and notify the provider.

(3) When a qualified provider has made a presumptive eligibility determination for a person, the provider shall:

1. Contact the department to obtain a state identification number for the person who has been determined presumptively eligible.

2. Notify the department in writing of the determination within five working days after the date the presumptive eligibility determination is made. The provider shall use a copy of Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, for this purpose.

3. Inform the person in writing, at the time the determination is made, that if the person has not applied for Medicaid on Form 470-2927 or 470-2927(S), Health Services Application, the person has until the last day of the month following the month of the preliminary determination to file the application with the department. The qualified provider shall use Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, for this purpose.

4. Forward copies of Form 470-2927 or 470-2927(S), Health Services Application, to the appropriate department office for eligibility determination if the person indicated on the application that the person was applying for any of the other programs. The provider shall forward these copies and proof of screening for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program within two working days from the date of the presumptive eligibility determination.

(4) In the event that a person needing care does not appear to be presumptively eligible, the qualified provider shall inform the person that the person may file an application at the county department office if the person wishes to have an eligibility determination made by the department.

(5) Presumptive eligibility shall end under either of the following conditions:

1. The person fails to file an application for Medicaid in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination.

2. The person files a Medicaid application by the last day of the month following the month of the presumptive eligibility determination and is found ineligible for Medicaid.

(6) Adequate and timely notice requirements and appeal rights shall apply to an eligibility determination made on a Medicaid application filed pursuant to rule 441—76.1(249A). However, notice requirements and appeal rights of the Medicaid program shall not apply to a person who is:

1. Denied presumptive eligibility by a qualified provider.

2. Determined to be presumptively eligible by a qualified provider and whose presumptive eligibility ends because the person fails to file an application by the last day of the month following the month of the presumptive eligibility determination.

(7) A new period of presumptive eligibility shall begin each time a person is screened for breast or cervical cancer under the Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act, is found to need treatment for breast or cervical cancer, and files Form 470-2927 or 470-2927(S), Health Services Application, with a qualified provider.

75.1(41) *Persons eligible for family planning services under demonstration waiver.* Medical assistance for family planning services only shall be available as provided in this subrule.

a. Eligibility. The following are eligible for assistance under this coverage group if they are not otherwise enrolled in Medicaid (other than IowaCare):

(1) Women who were Medicaid members when their pregnancy ended and who are capable of bearing children but are not pregnant. Eligibility for these women extends for 12 consecutive months after the month when their 60-day postpartum period ends.

(2) Women who have reached childbearing age, are under 55 years of age, are capable of bearing children but are not pregnant, and have income that does not exceed 305 percent of the federal poverty level, as determined according to paragraph 75.1(41)“c.”

(3) Men who are under 55 years of age, who are capable of fathering children, and who have income that does not exceed 305 percent of the federal poverty level, as determined according to paragraph 75.1(41)“c.”

b. Application.

(1) Women eligible under subparagraph 75.1(41)“a”(1) are not required to file an application for assistance under this coverage group. The department will automatically redetermine eligibility pursuant to rule 441—76.11(249A) upon loss of other Medicaid eligibility within 12 months after the month when the 60-day postpartum period ends.

(2) A person requesting assistance based on subparagraph 75.1(41)“a”(2) or 75.1(41)“a”(3) shall file an application as required in rule 441—76.1(249A).

c. Determining income eligibility. The department shall determine the countable income of an applicant applying under subparagraph 75.1(41)“a”(2) or 75.1(41)“a”(3) as follows:

(1) Household size. The household size shall include the applicant or member, any dependent children as defined in subrule 75.54(1) living in the same home as the applicant or member, and any spouse living in the same home as the applicant or member, except when a dependent child or spouse has elected to receive supplemental security income under Title XVI of the Social Security Act.

(2) Earned income. All earned income as defined in subrule 75.57(2) that is received by a member of the household shall be counted except for the earnings of a child who is a full-time student as defined in paragraph 75.54(1)“b.”

(3) Unearned income. The following unearned income of all household members shall be counted:

1. Unemployment compensation.

2. Child support.

3. Alimony.

4. Social security and railroad retirement benefits.

5. Worker’s compensation and disability payments.

6. Benefits paid by the Department of Veterans Affairs to disabled members of the armed forces or survivors of deceased veterans.

(4) Deductions. Deductions from income shall be made for any payments made by household members for court-ordered child support, alimony, or spousal support to non-household members and as provided in subrule 75.57(2).

(5) Disregard of changes. A person found to be income-eligible upon application or annual redetermination of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

d. Effective date. Assistance for family planning services under this coverage group shall be effective on the first day of the month of application or the first day of the month all eligibility requirements are met, whichever is later. Notwithstanding 441—subrule 76.5(1), assistance shall not be available under this coverage group for any months preceding the month of application.

75.1(42) Medicaid for independent young adults. Medical assistance shall be available, as assistance related to the family medical assistance program, to a person who left a foster care placement on or after May 1, 2006, and meets all of the following conditions:

a. The person is at least 18 years of age and under 21 years of age.

b. On the person’s eighteenth birthday, the person resided in foster care and Iowa was responsible for the foster care payment pursuant to Iowa Code section 234.35.

c. The person is not a mandatory household member or receiving Medicaid benefits under another coverage group.

d. The person has income below 200 percent of the most recently revised federal poverty level for the person's household size.

(1) "Household" shall mean the person and any of the following people who are living with the person and are not active on another Medicaid case:

1. The person's own children;
2. The person's spouse; and
3. Any children of the person's spouse who are under the age of 18 and unmarried.

No one else shall be considered a member of the person's household. A person who lives alone or with others not listed above, including the person's parents, shall be considered a household of one.

(2) The department shall determine the household's countable income pursuant to rule 441—75.57(249A). Twenty percent of earned income shall be disregarded.

(3) A person found to be income-eligible upon application or upon annual redetermination of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

75.1(43) Medicaid for children with disabilities. Medical assistance shall be available to children who meet all of the following conditions on or after January 1, 2009:

a. The child is under 19 years of age.

b. The child is disabled as determined pursuant to rule 441—75.20(249A) based on the disability standards for children used for Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, but without regard to any income or asset eligibility requirements of the SSI program.

c. The child is enrolled in any group health plan available through the employer of a parent living in the same household as the child if the employer contributes at least 50 percent of the total cost of annual premiums for that coverage. The parent shall enroll the child and pay any employee premium required to maintain coverage for the child.

d. The child's household has income at or below 300 percent of the federal poverty level applicable to a family of that size.

(1) For this purpose, the child's household shall include any of the following persons who are living with the child and are not receiving Medicaid on another case:

1. The child's parents.
2. The child's siblings under the age of 19.
3. The child's spouse.
4. The child's children.
5. The children of the child's spouse.

(2) Only those persons identified in subparagraph (1) shall be considered a member of the child's household. A person who receives medically needy coverage with a spenddown or limited benefits such as Medicare savings programs or family planning services only is not considered to be "receiving Medicaid" for the purposes of subparagraph (1). A child who lives alone or with persons not identified in subparagraph (1) shall be considered as having a household of one.

(3) For this purpose, the income of all persons included in the child's household shall be determined as provided for SSI-related groups under subrule 75.13(2).

(4) The federal poverty levels used to determine eligibility shall be revised annually on April 1.

75.1(44) Presumptive eligibility for children. Medical assistance shall be available to children under the age of 19 who are determined by a qualified entity to be presumptively eligible for medical assistance pursuant to this subrule.

a. *Qualified entity.* A "qualified entity" is an entity described in paragraphs (1) through (10) of the definition of the term at 42 CFR 435.1101, as amended to October 1, 2008, that:

- (1) Has been determined by the department to be capable of making presumptive determinations of eligibility, and
- (2) Has signed an agreement with the department as a qualified entity.

b. Application process. Families requesting assistance for children under this subrule shall apply with a qualified entity using the form specified in 441—paragraph 76.1(1) “f.” The qualified entity shall use the department’s Web-based system to make the presumptive eligibility determination, based on the information provided in the application.

(1) All presumptive eligibility applications shall be forwarded to the department for a full Medicaid or HAWK-I eligibility determination, regardless of the child’s presumptive eligibility status.

(2) The date a valid application was received by the qualified entity establishes the date of application for purposes of determining the effective date of Medicaid or HAWK-I eligibility unless the qualified entity received the application on a weekend or state holiday. Applications received by the qualified entity on a weekend or a state holiday shall be considered to be received on the first business day following the weekend or state holiday.

(3) The qualified entity shall issue Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, to inform the applicant of the decision on the application as soon as possible but no later than within two working days after the date the determination is made.

(4) Timely and adequate notice requirements and appeal rights of the Medicaid program shall not apply to presumptive eligibility decisions made by a qualified entity.

c. Eligibility requirements. To be determined presumptively eligible for medical assistance, a child shall meet the following eligibility requirements.

(1) Age. The child must be under the age of 19.

(2) Household income. Household income must be less than 300 percent of the federal poverty level for a household of the same size. For this purpose, the household shall include the applicant child and any sibling (of whole or half blood, or adoptive), spouse, parent, or stepparent living with the applicant child. This determination shall be based on the household’s gross income, with no deductions, diversions, or disregards.

(3) Citizenship or qualified alien status. The child must be a citizen of the United States or a qualified alien as defined in subrule 75.11(2).

(4) Iowa residency. The child must be a resident of Iowa.

(5) Prior presumptive eligibility. A child shall not be determined presumptively eligible more than once in a 12-month period. The first month of the 12-month period begins with the month the application is received by the qualified entity.

d. Period of presumptive eligibility. Presumptive eligibility shall begin with the date that presumptive eligibility is determined and shall continue until the earliest of the following dates:

(1) The last day of the next calendar month;

(2) The day the child is determined eligible for Medicaid;

(3) The last day of the month that the child is determined eligible for HAWK-I; or

(4) The day the child is determined ineligible for Medicaid and HAWK-I. Withdrawal of the Medicaid or HAWK-I application before eligibility is determined shall not affect the child’s eligibility during the presumptive period.

e. Services covered. Children determined presumptively eligible under this subrule shall be entitled to all Medicaid-covered services, including early and periodic screening, diagnosis, and treatment (EPSDT) services. Payment of claims for Medicaid services provided to a child during the presumptive eligibility period, including EPSDT services, is not dependent upon a determination of Medicaid or HAWK-I eligibility by the department.

75.1(45) Medicaid for former foster care youth. Effective January 1, 2014, medical assistance shall be available to a person who meets all of the following conditions:

a. The person is at least 18 years of age (or such higher age to which foster care is provided to the person) and under 26 years of age;

b. The person is not described in or enrolled under any of Subclauses (I) through (VII) of Section 1902(a)(10)(A)(i) of Title XIX of the Social Security Act or is described in any of such subclauses but has income that exceeds the level of income applicable under Iowa’s state Medicaid plan for eligibility to enroll for medical assistance under such subclause;

c. The person was in foster care under the responsibility of Iowa on the date of attaining 18 years of age or such higher age to which foster care is provided; and

d. The person was enrolled in the Iowa Medicaid program under Title XIX of the Social Security Act while in such foster care.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4 and 249A.6.

[ARC 7741B, IAB 5/6/09, effective 7/1/09; ARC 7833B, IAB 6/3/09, effective 8/1/09; ARC 7929B, IAB 7/1/09, effective 7/1/09; ARC 7931B, IAB 7/1/09, effective 7/1/09; ARC 8095B, IAB 9/9/09, effective 10/14/09; ARC 8260B, IAB 11/4/09, effective 1/1/10; ARC 8261B, IAB 11/4/09, effective 10/15/09; ARC 8439B, IAB 1/13/10, effective 3/1/10; ARC 8503B, IAB 2/10/10, effective 1/13/10; ARC 8713B, IAB 5/5/10, effective 8/1/10; ARC 8897B, IAB 6/30/10, effective 9/1/10; ARC 9581B, IAB 6/29/11, effective 8/3/11; ARC 9647B, IAB 8/10/11, effective 8/1/11; ARC 9956B, IAB 1/11/12, effective 1/1/12; ARC 0149C, IAB 6/13/12, effective 8/1/12; ARC 0579C, IAB 2/6/13, effective 4/1/13; ARC 0820C, IAB 7/10/13, effective 8/1/13; ARC 0990C, IAB 9/4/13, effective 1/1/14; ARC 1134C, IAB 10/30/13, effective 10/2/13; ARC 1482C, IAB 6/11/14, effective 8/1/14]

441—75.2(249A) Medical resources. Medical resources include health and accident insurance, eligibility for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Social Security Act (Medicare), and other resources for meeting the cost of medical care which may be available to the member. These resources must be used when reasonably available.

75.2(1) The department shall approve payment only for those services or that part of the cost of a given service for which no medical resources exist unless pay and chase provisions as defined in rule 441—75.25(249A) are applicable.

a. Persons who have been approved by the Social Security Administration for Supplemental Security Income shall complete Form 470-0364, 470-0364(M), 470-0364(MS), or 470-0364(S), SSI Medicaid Information, and return it to the department.

b. Persons eligible for Part B of the Medicare program shall make assignment to the department on Form 470-0364, 470-0364(M), 470-0364(MS), or 470-0364(S), SSI Medicaid Information.

75.2(2) As a condition of eligibility for medical assistance, a person who has the legal capacity to execute an assignment shall do all of the following:

a. Assign to the department any rights to payments of medical care from any third party to the extent that payment has been made under the medical assistance program. The applicant's signature on any form listed in 441—subrule 76.1(1) shall constitute agreement to the assignment. The assignment shall be effective for the entire period for which medical assistance is paid.

b. Cooperate with the department in obtaining third-party payments. The member or one acting on the member's behalf shall:

- (1) File a claim or submit an application for any reasonably available medical resource, and
- (2) Cooperate in the processing of the claim or application.

c. Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

75.2(3) Good cause for failure to cooperate in the filing or processing of a claim or application shall be considered to exist when the member, or one acting on behalf of a minor, or of a legally incompetent adult member, is physically or mentally incapable of cooperation. Good cause shall be considered to exist when cooperation is reasonably anticipated to result in:

- a. Physical or emotional harm to the member for whom medical resources are being sought.
- b. Physical or emotional harm to the parent or payee, acting on the behalf of a minor, or of a legally incompetent adult member, for whom medical resources are being sought.

75.2(4) Failure to cooperate as required in subrule 75.2(2) without good cause as defined in subrule 75.2(3) shall result in the termination of medical assistance benefits. The department shall make the determination of good cause based on information and evidence provided by the member or by one acting on the member's behalf.

a. The medical assistance benefits of a minor or a legally incompetent adult member shall not be terminated for failure to cooperate in reporting medical resources.

b. When a parent or payee acting on behalf of a minor or legally incompetent adult member fails to file a claim or application for reasonably available medical resources or fails to cooperate in

the processing of a claim or application without good cause, the medical assistance benefits of the parent or payee shall be terminated.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5 and 249A.6.
[ARC 7546B, IAB 2/11/09, effective 4/1/09; ARC 8503B, IAB 2/10/10, effective 1/13/10; ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.3(249A) Acceptance of other financial benefits. An applicant or member shall take all steps necessary to apply for and, if entitled, accept any income or resources for which the applicant or member may qualify, unless the applicant or member can show an incapacity to do so. Sources of benefits may be, but are not limited to, annuities, pensions, retirement or disability benefits, veterans' compensation and pensions, old-age, survivors, and disability insurance, railroad retirement benefits, black lung benefits, or unemployment compensation.

75.3(1) When it is determined that the supplemental security income (SSI)-related applicant or member may be entitled to other cash benefits, the department shall send a Notice Regarding Acceptance of Other Benefits, Form 470-0383, to the applicant or member.

75.3(2) The SSI-related applicant or member must express an intent to apply or refuse to apply for other benefits within ten calendar days from the date the notice is issued. A signed refusal to apply or failure to return the form shall result in denial of the application or cancellation of Medicaid unless the applicant or member is mentally or physically incapable of filing the claim for other cash benefits.

75.3(3) When the SSI-related applicant or member is physically or mentally incapable of filing the claim for other cash benefits, the department shall request the person acting on behalf of the member to pursue the potential benefits.

75.3(4) The SSI-related applicant or member shall cooperate in applying for the other benefits. Failure to timely secure the other benefits shall result in cancellation of Medicaid.

EXCEPTION: An applicant or member shall not be required to apply for supplementary security income to receive Medicaid under subrule 75.1(17).

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

441—75.4(249A) Medical assistance lien.

75.4(1) When the medical assistance program pays for a member's medical care or expenses, the department shall have a lien upon all monetary claims which the member may have against third parties for those expenses. Monetary claims shall include medical malpractice claims for injuries sustained on or after July 1, 2011. The lien shall be to the extent of the medical assistance payments only.

a. A lien is not effective unless the department files a notice of lien with the clerk of the district court in the county where the member resides and with the member's attorney when the member's eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the member, the member's attorney, or other representative.

b. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final.

(1) A compromise, including, but not limited to, notification, settlement, waiver or release of a claim, does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee under which the department would receive less than full reimbursement of the amounts it expended.

(2) A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a member or on behalf of a member which fails to state a claim for recovery of medical expenses does not defeat the department's lien if there is any recovery on the member's claim.

c. All notifications to the department required by law shall be directed to the Iowa Medicaid Enterprise, Revenue Collection Unit, P.O. Box 36475, Des Moines, Iowa 50315. Notification shall be considered made as of the time the notification is deposited so addressed, postage prepaid, in the United States Postal Service system.

75.4(2) The department may pursue its rights to recover either directly from any third party or from any recovery obtained by or on behalf of any member. If a member incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department has a lien

under this section, upon the receipt of the judgment or settlement of the total claim, of which the lien for medical assistance payments is a part, the court costs and reasonable attorney fees shall first be deducted from this total judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the member. From the remaining balance, the lien of the department shall be paid. Any amount remaining shall be paid to the member. An attorney acting on behalf of a member for the purpose of enforcing a claim to which the department has a lien shall not collect from the member any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this rule. The department will provide computer-generated documents or claim forms describing the services for which it has paid upon request of any affected member or the member's attorney. The documents may also be provided to a third party where necessary to establish the extent of the department's claim.

75.4(3) In those cases where appropriate notification is not given to the department or where the department's recovery rights are otherwise adversely affected by an action of the member or one acting on the member's behalf, medical assistance benefits shall be terminated. The medical assistance benefits of a minor child or a legally incompetent adult member shall not be terminated. Subsequent eligibility for medical assistance benefits shall be denied until an amount equal to the unrecovered claim has been reimbursed to the department or the individual produces documentation of incurred medical expense equal to the amount of the unrecovered claim. The incurred medical expense shall not be paid by the medical assistance program.

a. The client, or one acting on the client's behalf, shall provide information and verification as required to establish the availability of medical or third-party resources.

b. Rescinded IAB 9/4/91, effective 11/1/91.

c. The client or person acting on the client's behalf shall complete Form 470-2826, Supplemental Insurance Questionnaire, in a timely manner at the time of application, when any change in medical resources occurs during the application period, and when any changes in medical resources occur after the application is approved.

A report shall be considered timely when made within ten days from:

(1) The date that health insurance begins, changes, or ends.

(2) The date that eligibility begins for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Social Security Act (Medicare) and other resources.

(3) The date the client, or one acting on the client's behalf, files an insurance claim against an insured third party, for the payment of medical expenses that otherwise would be paid by Medicaid.

(4) The date the member, or one acting on the member's behalf, retains an attorney with the expectation of seeking restitution for injuries from a possibly liable third party, and the medical expenses resulting from those injuries would otherwise be paid by Medicaid.

(5) The date that the member, or one acting on the member's behalf, receives a partial or total settlement for the payment of medical expenses that would otherwise be paid by Medicaid.

The member may report the change in person, by telephone, by mail or by using the Ten-Day Report of Change, Form 470-0499 or 470-0499(S), which is mailed with the Family Investment Program warrants and is issued to the client when Medicaid applications are approved, when annual reviews are completed, when a completed Ten-Day Report of Change is submitted, and when the client requests a form.

d. The member, or one acting on the member's behalf, shall complete the Priority Leads Letter, Form 470-0398, when the department has reason to believe that the member has sustained an accident-related injury. Failure to cooperate in completing and returning this form, or in giving complete and accurate information, shall result in the termination of Medicaid benefits.

e. When the recovery rights of the department are adversely affected by the actions of a parent or payee acting on behalf of a minor or legally incompetent adult member, the Medicaid benefits of the parent or payee shall be terminated. When a parent or payee fails to cooperate in completing or returning the Priority Leads Letter, Form 470-0398, or the Supplemental Insurance Questionnaire, Form 470-2826, or fails to give complete and accurate information concerning the accident-related injuries of a minor or

legally incompetent adult member, the department shall terminate the Medicaid benefits of the parent or payee.

f. The member, or one acting on the member's behalf, shall refund to the department from any settlement or payment received the amount of any medical expenses paid by Medicaid. Failure of the member to do so shall result in the termination of Medicaid benefits. In those instances where a parent or payee, acting on behalf of a minor or legally incompetent adult member, fails to refund a settlement overpayment to the department, the Medicaid benefits of the parent or payee shall be terminated.

75.4(4) Third party and provider responsibilities.

a. The health care services provider shall inform the department by appropriate notation on the Health Insurance Claim, Form CMS-1500, that other coverage exists but did not cover the service being billed or that payment was denied.

b. The health care services provider shall notify the department in writing by mailing copies of any billing information sent to a member, an attorney, an insurer or other third party after a claim has been submitted to or paid by the department.

c. An attorney representing an applicant for medical assistance or a past or present Medicaid member on a claim to which the department has filed a lien under this rule shall notify the department of the claim of which the attorney has actual knowledge, before filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge shall include the notice to the attorney pursuant to subrule 75.4(1). The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or local office location, is adequate legal notice of the claim.

75.4(5) Department's lien.

a. The department's liens are valid and binding on an attorney, insurer or other third party only upon notice by the department or unless the attorney, insurer or other third party has actual notice that the member is receiving medical assistance from the department and only to the extent that the attorney, insurer or third party has not made payment to the member or an assignee of the member prior to the notice.

Any information released to an attorney, insurer or other third party, by the health care services provider, that indicates that reimbursement from the state was contemplated or received, shall be construed as giving the attorney, insurer or other third party actual knowledge of the department's involvement. For example, information supplied by a health care services provider which indicates medical assistance involvement shall be construed as showing involvement by the department under Iowa Code section 249A.6. Payment of benefits by an insurer or third party pursuant to the rights of the lienholder in this rule discharges the attorney, insurer or other third party from liability to the member or the member's assignee to the extent of the payment to the department.

b. When the department has reason to believe that an attorney is representing a member on a claim to which the department filed a lien under this rule, the department shall issue notice to that attorney of the department's lien rights by mailing the Notice of Medical Assistance Lien, Form 470-3030, to the attorney.

c. When the department has reason to believe that an insurer is liable for the costs of a member's medical expenses, the department shall issue notice to the insurer of the department's lien rights by mailing the Notice of Medical Assistance Lien, Form 470-3030, to the insurer.

d. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the attorney or insurer, is adequate legal notice of the department's subrogation rights.

75.4(6) For purposes of this rule, the term "third party" includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for medical assistance or a past or present Medicaid member.

75.4(7) The department may enforce its lien by a civil action against any liable third party.

This rule is intended to implement Iowa Code sections 249A.4, 249A.5, and 249A.6.

[ARC 9696B, IAB 9/7/11, effective 9/1/11; ARC 9881B, IAB 11/30/11, effective 1/4/12]

441—75.5(249A) Determination of countable income and resources for persons in a medical institution. In determining eligibility for any coverage group under rule 441—75.1(249A), certain factors must be considered differently for persons who reside in a medical institution. They are:

75.5(1) Determining income from property.

a. Nontrust property. Where there is nontrust property, unless the document providing income specifies differently, income paid in the name of one person shall be available only to that person. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, including a Medicaid client, a client's spouse, or both, the income shall be considered in proportion to the Medicaid client's or spouse's interest. If payment is made jointly to both spouses and no interest is specified, one-half of the couple's joint interest shall be considered available for each spouse. If the client or the client's spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.

b. Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.

75.5(2) Division of income between married people for SSI-related coverage groups.

a. Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income shall be considered in determining eligibility for the institutionalized spouse.

b. Spouses institutionalized and living together. Partners in a marriage who are residing in the same room in a medical institution shall be treated as a couple until the first day of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or receive reduced benefits by considering them separate individuals or if they choose to be considered together. When spouses are treated as a couple, the combined income of the couple shall not exceed twice the amount of the income limit established in subrule 75.1(7). Persons treated together as a couple for income must be treated together for resources and persons treated individually for income must be treated individually for resources.

Spouses residing in the same room in a medical institution may be treated as individuals effective the first day of the seventh calendar month. The income of each spouse shall not exceed the income limit established in subrule 75.1(7).

c. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, shall be treated as individuals effective the month after the month the partners cease living together. Their income shall be treated separately for eligibility. If they live in the same facility after six months of continuous residence, they may be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or receive reduced benefits by considering them separate individuals or if they choose to be considered together.

In the month of entry into a medical institution, income shall not exceed the amount of the income limit established in subrule 75.1(7).

75.5(3) Attribution of resources to institutionalized spouse and community spouse. The department shall determine the attribution of a couple's resources to the institutionalized spouse and to the community spouse when the institutionalized spouse is expected to remain in a medical institution at least 30 consecutive days on or after September 30, 1989, at the beginning of the first continuous period of institutionalization.

a. When determined. The department shall determine the attribution of resources between spouses at the earlier of the following:

(1) When either spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility prior to an application for Medicaid benefits. This request must be accompanied by Form 470-2577, Resources Upon Entering a Medical Facility, and necessary documentation.

(2) When the institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, the applicant shall also complete Form 470-2577 and provide necessary documentation.

b. Information required. The couple must provide the social security number of the community spouse. The attribution process shall include a match of the Internal Revenue Service data for both the institutionalized and community spouses.

c. Resources considered. The resources attributed shall include resources owned by both the community spouse and institutionalized spouse except for the following resources:

(1) The home in which the spouse or relatives as defined in 441—paragraph 41.22(3)“a” live (including the land that appertains to the home).

(2) Household goods, personal effects, and one automobile.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of either spouse or any other member of the immediate family.

(4) Other property essential to the means of self-support of either spouse as to warrant its exclusion under the SSI program.

(5) Resources of a blind or disabled person who has a plan for achieving self-support as determined by division of vocational rehabilitation or the department of human services.

(6) For natives of Alaska, shares of stock held in a regional or a village corporation, during the period of 20 years in which the stock is inalienable, as provided in Section 7(h) and Section 8(c) of the Alaska Native Claims Settlement Act.

(7) Assistance under the Disaster Relief Act and Emergency Assistance Act or other assistance provided pursuant to federal statute on account of a presidentially declared major disaster and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(8) Any amount of underpayment of SSI or social security benefit due either spouse for one or more months prior to the month of receipt. This exclusion shall be limited to the first six months following receipt.

(9) A life insurance policy(ies) whose total face value is \$1500 or less per spouse.

(10) An amount, not in excess of \$1500 for each spouse that is separately identifiable and has been set aside to meet the burial and related expenses of that spouse. The amount of \$1500 shall be reduced by an amount equal to the total face value of all insurance policies which are owned by the person or spouse and the total of any amounts in an irrevocable trust or other irrevocable arrangement available to meet the burial and related expenses of that spouse.

(11) Federal assistance paid for housing occupied by the spouse.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a client comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which is subject to the treatment required by Section 216 of the Act.

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance by Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. § 1396r-5(f)(2)(A)(i)), the amount over the maximum shall be attributed to the institutionalized spouse. (The maximum limit is indexed annually according to the consumer price index.)

If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred shall be the amount attributed to the community spouse if it exceeds the specified limits above.

e. Notice and appeal rights. The department shall provide each spouse a notice of the attribution results. The notice shall state that either spouse has a right to appeal the attribution if the spouse believes:

- (1) That the attribution is incorrect, or
- (2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance.

If an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.

f. Appeals. Hearings on attribution decisions shall be governed by procedures in 441—Chapter 7. If the hearing establishes that the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance, there shall be substituted an amount adequate to provide the minimum monthly maintenance needs allowance.

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse. For an applicant who became an institutionalized spouse on or after February 8, 2006, all income of the institutionalized spouse that could be made available to the community spouse pursuant to 75.16(2) "d" shall be treated as countable income of the community spouse when the attribution decision was made on or after February 8, 2006.

(2) The amount of resources adequate to provide the community spouse minimum maintenance needs allowance shall be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the monthly maintenance needs allowance and other countable income not generated by either spouse's countable resources.

(3) The resources necessary to provide the minimum maintenance needs allowance shall be based on the maintenance needs allowance as provided by these rules at the time of the filing of the appeal.

(4) To receive the substituted allowance, the applicant shall be required to obtain one estimate of the cost of the annuity.

(5) The estimated cost of an annuity shall be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the estimated cost of an annuity. If the amount of resources previously attributed for the community spouse is greater than the estimated cost of an annuity, there shall be no substitution for the cost of the annuity, and the attribution will remain as previously determined.

(6) The applicant shall not be required to purchase this annuity as a condition of Medicaid eligibility.

(7) If the appellant provides a statement from an insurance company that it will not provide an estimate due to the potential annuitant's age, the amount to be set aside shall be determined using the following calculation: The difference between the community spouse's gross monthly income not generated by countable resources (times 12) and the minimum monthly maintenance needs allowance (times 12) shall be multiplied by the annuity factor for the age of the community spouse in the Table for an Annuity for Life published at the end of Iowa Code chapter 450. This amount shall be substituted for the amount of resources attributed to the community spouse pursuant to subparagraph 75.5(3) "f"(5).

75.5(4) Consideration of resources of married people.

a. One spouse in a medical facility who entered the facility on or after September 30, 1989.

(1) Initial month. When the institutionalized spouse is expected to stay in a medical facility less than 30 consecutive days, the resources of both spouses shall be considered in determining initial Medicaid eligibility.

When the institutionalized spouse is expected to be in a medical facility 30 consecutive days or more, only the resources not attributed to the community spouse according to subrule 75.5(3) shall be considered in determining initial eligibility for the institutionalized spouse.

The amount of resources counted for eligibility for the institutionalized spouse shall be the difference between the couple's total resources at the time of application and the amount attributed to the community spouse under this rule.

(2) Ongoing eligibility. After the month in which the institutionalized spouse is determined eligible, no resources of the community spouse shall be deemed available to the institutionalized spouse during

the continuous period in which the spouse is in an institution. Resources which are owned wholly or in part by the institutionalized spouse and which are not transferred to the community spouse shall be counted in determining ongoing eligibility. The resources of the institutionalized spouse shall not count for ongoing eligibility to the extent that the institutionalized spouse intends to transfer and does transfer the resources to the community spouse within 90 days unless unable to effect the transfer.

(3) Exception based on estrangement. When it is established by a disinterested third-party source that the institutionalized spouse is estranged from the community spouse, Medicaid eligibility will not be denied on the basis of resources when the applicant can demonstrate hardship.

The applicant can demonstrate hardship when the applicant is unable to obtain information about the community spouse's resources after exploring all legal means.

The applicant can also demonstrate hardship when resources attributed from the community spouse cause the applicant to be ineligible, but the applicant is unable to access these resources after exhausting legal means.

(4) Exception based on assignment of support rights. The institutionalized spouse shall not be ineligible by attribution of resources that are not actually available when:

1. The institutionalized spouse has assigned to the state any rights to support from the community spouse, or

2. The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the state has the right to bring a support proceeding against a community spouse without an assignment.

b. One spouse in a medical institution prior to September 30, 1989. When one spouse is in the medical institution prior to September 30, 1989, only the resources of the institutionalized spouse shall count for eligibility according to SSI policies the month after the month of entry. In the month of entry, the resources of both spouses are countable toward the couple resource limit.

c. Spouses institutionalized and living together. The combined resources of both partners in a marriage who are residing in the same room in a medical institution shall be subject to the resource limit for a married couple until the first of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for medical assistance effective with the seventh month if one partner would be ineligible for medical assistance or would receive reduced benefits by considering them separately or if they choose to be considered together. Persons treated together as a couple for resources must be treated together for income and persons treated individually for resources must be treated individually for income. Effective the first of the seventh calendar month of continuous residence, they may be treated as individuals, with the resource limit for each spouse the limit for a single person.

d. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, shall be treated as individuals effective the month after the month the partners cease living together. If they live in the same facility after six months of continuous residence, they may be considered as a couple for medical assistance effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for medical assistance or would receive reduced benefits by considering them separately or if they choose to be considered together.

In the month of entry into a medical institution, all resources of both spouses shall be combined and shall be subject to the resource limit for a married couple.

75.5(5) Consideration of resources for persons in a medical institution who have purchased and used a qualified or approved long-term care insurance policy pursuant to department of commerce, division of insurance, rules in 191—Chapter 39 or 72.

a. Eligibility. A person may be eligible for medical assistance under this subrule if:

(1) The person is the beneficiary of a qualified long-term care insurance policy or is enrolled in a prepaid health care delivery plan that provides long-term care services pursuant to 191—Chapter 39 or 72; and

(2) The person is eligible for medical assistance under 75.1(6), 75.1(7), or 75.1(18) except for excess resources; and

(3) The excess resources causing ineligibility under the listed coverage groups do not exceed the “asset adjustment” provided in this subrule.

b. Definition. “Asset adjustment” shall mean a \$1 disregard of resources for each \$1 that has been paid out under the person’s qualified or approved long-term care insurance policy.

c. Estate recovery. An amount equal to the benefits paid out under a member’s qualified or approved long-term care insurance policy will be exempt from recovery from the estate of the member or the member’s spouse for payments made by the medical assistance program on behalf of the member.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4, and 249A.35 and chapter 514H.

[ARC 8443B, IAB 1/13/10, effective 3/1/10]

441—75.6(249A) Entrance fee for continuing care retirement community or life care community. When an individual resides in a continuing care retirement community or life care community that collects an entrance fee on admission, the entrance fee paid shall be considered a resource available to the individual for purposes of determining the individual’s Medicaid eligibility and the amount of benefits to the extent that:

1. The individual has the ability to use the entrance fee, or the contract between the individual and the community provides that the entrance fee may be used to pay for care should the individual’s other resources or income be insufficient to pay for such care;

2. The individual is eligible for a refund of any remaining entrance fee when the individual dies or when the individual terminates the community contract and leaves the community; and

3. The entrance fee does not confer an ownership interest in the community.

This rule is intended to implement Iowa Code section 249A.4.

441—75.7(249A) Furnishing of social security number.

75.7(1) As a condition of eligibility, except as provided by subrule 75.7(2), all social security numbers issued to each individual (including children) for whom Medicaid is sought must be furnished to the department.

75.7(2) The requirement of subrule 75.7(1) does not apply to an individual who:

a. Is not eligible to receive a social security number;

b. Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104; or

c. Refuses to obtain a social security number because of a well-established religious objection.

For this purpose, a well-established religious objection means that the individual:

(1) Is a member of a recognized religious sect or division of the sect; and

(2) Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

75.7(3) If a social security number has not been issued or is not known, the individual seeking Medicaid must cooperate with the department in applying for a social security number with the Social Security Administration or in requesting the Social Security Administration to furnish the number.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.8(249A) Medical assistance corrective payments. If a decision by the department or the Social Security Administration following an appeal on a denied application for any of the categories of medical assistance eligibility set forth in rule 441—75.1(249A) is favorable to the claimant, reimbursement will be made to the claimant for any medical bills paid by the claimant during the period between the date of the denial on the initial application and the date regular medical assistance coverage began when the bills were for medical services rendered in the period now determined to be an eligible period based on the following conditions:

75.8(1) These bills must be for services covered by the medical assistance program as set forth in 441—Chapter 78.

75.8(2) Reimbursement will be based on Medicaid rates for services in effect at the time the services were provided.

75.8(3) If a county relief agency has paid medical bills on the recipient's behalf and has not received reimbursement through assignment as set forth in 441—Chapter 80, the department will reimburse the county relief agency directly on the same basis as if the reimbursement was made to the recipient.

75.8(4) Recipients and county relief agencies shall file claims for payment under this subrule by submitting Form 470-2224, Verification of Paid Medical Bills, to the department. A supply of these forms is available from the county office. All requests for reimbursement shall be acted upon within 60 days of receipt of all Forms 470-2224 in the county office.

75.8(5) Any adverse action taken by the department with respect to an application for reimbursement is appealable under 441—Chapter 7.

This rule is intended to implement Iowa Code section 249A.4.

441—75.9(249A) Treatment of Medicaid qualifying trusts.

75.9(1) A Medicaid qualifying trust is a trust or similar legal device established, on or before August 10, 1993, other than by will by a person or that person's spouse under which the person may be the beneficiary of payments from the trust and the distribution of these payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the person. Trusts or initial trust decrees established prior to April 7, 1986, solely for the benefit of a mentally retarded person who resides in an intermediate care facility for the mentally retarded, are exempt.

75.9(2) The amount of income and principal from a Medicaid qualifying trust that shall be considered available shall be the maximum amount that may be permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees for the distribution of the funds.

a. Trust income considered available shall be counted as income.

b. Trust principal (including accumulated income) considered available shall be counted as a resource, except where the trust explicitly limits the amount of principal that can be made available on an annual or less frequent basis. Where the trust limits the amount, the principal considered available over any particular period of time shall be counted as income for that period of time.

c. To the extent that the trust principal and income is available only for medical care, this principal or income shall not be used to determine eligibility. To the extent that the trust is restricted to medical expenses, it shall be used as a third party resource.

This rule is intended to implement Iowa Code section 249A.4.

441—75.10(249A) Residency requirements. Residency in Iowa is a condition of eligibility for medical assistance.

75.10(1) Definitions.

a. Institutions. For purposes of this rule, “institution” means an “institution” or a “medical institution” as those terms are defined in 42 CFR § 435.1010 as amended to July 13, 2007. For purposes of state placement, “institution” also includes foster care homes licensed as set forth in 45 CFR § 1355.20 as amended to January 6, 2012, and providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

b. Incapable of expressing intent regarding residency. For purposes of this rule, an individual is considered to be “incapable of indicating intent regarding residency” if the individual:

1. Has an IQ of 49 or less or has a mental age of seven or less;

2. Has been judged legally incompetent; or

3. Has been determined to be incapable of indicating intent regarding residency by a physician, psychologist or other person licensed by the state in the field of intellectual disability.

75.10(2) Determination of residency. State residency is determined according to the following criteria. If more than one criterion applies, the applicable criterion listed first determines the individual's residency:

a. Cases of disputed residency. If two or more states do not agree on an individual's state of residence, the state where the individual is physically located is the state of residence.

b. Temporary absence from state of residence. An individual who was a resident of a state pursuant to the other criteria of this rule, who is temporarily absent from that state, and who intends to return to

that state when the purpose of the absence has been accomplished remains a resident of that state during the absence, unless another state has determined that the person is a resident there for Medicaid purposes.

c. Individuals placed by a state in an out-of-state institution. If any agency of a state, including an entity recognized under state law as being under contract with the state for such purposes, arranges for an individual to be placed in an institution located in another state, the state arranging or actually making the placement is considered the individual's state of residence during that placement.

(1) Any action beyond providing information to the individual and the individual's family constitutes arranging or making a placement. However, the following actions do not constitute arranging or making a placement:

1. Providing basic information to individuals about another state's Medicaid program and information about the availability of health care services and facilities in another state.

2. Assisting an individual in locating an institution in another state, provided the individual is not incapable of indicating intent regarding residency and independently decides to move.

(2) When a competent individual leaves an out-of-state institution in which the individual was placed by a state, that individual's state of residence is the state where the individual is physically located.

d. Individuals receiving a state supplementary assistance payment. Individuals who are receiving a state supplementary assistance payment pursuant to 42 U.S.C. § 1382e (including payments from Iowa pursuant to rules 441—50.1(249) through 441—54.8(249), 441—81.23(249A), 441—82.19(249A), 441—85.47(249A), or 441—177.1(249) through 441—177.11(249)) are considered to be residents of the state paying the supplementary assistance.

e. Individuals receiving Title IV-E payments. Individuals who are receiving federal foster care or adoption assistance payments for a child under Title IV-E of the Social Security Act are considered to be residents of the state where the child lives.

f. Individuals aged 21 and over who are residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and intends to reside.

g. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency before the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency before the age of 21, the state of residence is:

(1) That of the parent applying for Medicaid on the individual's behalf if the parents reside in separate states (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(3) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(4) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

h. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21, the state of residence is the state in which the individual is physically present.

i. Individuals aged 21 and over who are not residing in an institution and who are incapable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is incapable of indicating intent regarding residency, the state of residence is the state where the individual is living.

j. Individuals aged 21 and over who are not residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and either:

- (1) Intends to reside, with or without a fixed address; or
- (2) Entered with a job commitment or to seek employment, whether or not currently employed.

k. Individuals under the age of 21 who are residing in an institution and who are not married or emancipated. For an individual under the age of 21 who is residing in an institution and who is neither married nor emancipated, the state of residence is:

(1) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(3) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

l. Individuals under the age of 21 who are capable of indicating intent regarding residency and who are married or emancipated. For an individual under the age of 21 who is not incapable of indicating intent regarding residency and who is married or emancipated from the individual's parent, the state of residence is determined in accordance with paragraph 75.10(2) "j."

m. Other individuals under the age of 21. For an individual under the age of 21 who is not described in paragraph 75.10(2) "k" or "l," the state of residence is:

- (1) The state where the individual resides, with or without a fixed address; or
- (2) The state of residency of the parent or caretaker, determined in accordance with paragraph 75.10(2) "j," with whom the individual resides.

This rule is intended to implement Iowa Code section 249A.3.
[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.11(249A) Citizenship or alienage requirements.

75.11(1) Definitions.

"Care and services necessary for the treatment of an emergency medical condition" means services provided in a hospital, clinic, office or other facility that is equipped to furnish the required care for an emergency medical condition, provided the care and services are not related to an organ transplant procedure furnished on or after August 10, 1993. Payment for emergency medical services shall be limited to the day treatment is initiated for the emergency medical condition and the following two days.

"Emergency medical condition" means a medical condition of sudden onset (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in one or more of the following:

1. Placing the patient's health in serious jeopardy.
2. Serious impairment to bodily functions.
3. Serious dysfunction of any bodily organ or part.

"Federal means-tested program" means all federal programs that are means-tested with the exception of:

1. Medical assistance for care and services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure furnished on or after August 10, 1993.
2. Short-term, non-cash, in-kind emergency disaster relief.
3. Assistance or benefits under the National School Lunch Act.
4. Assistance or benefits under the Child Nutrition Act of 1966.

5. Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by a communicable disease.

6. Payments of foster care and adoption assistance under Parts B and E of Title IV of the Social Security Act for a parent or a child who would, in the absence of numbered paragraph "1," be eligible to have payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of the child is a qualified alien (as defined in Section 431).

7. Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the attorney general of the United States in the attorney general's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:

- Deliver in-kind services at the community level, including through public or private nonprofit agencies;

- Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

- Are necessary for the protection of life or safety.

8. Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965, and Titles III, VII, and VIII of the Public Health Services Act.

9. Means-tested programs under the Elementary and Secondary Education Act of 1965.

10. Benefits under the Head Start Act.

11. Benefits funded through an employment and training program of the U.S. Department of Labor.

"Qualified alien" means an alien:

1. Who is lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (INA);

2. Who is granted asylum in the United States under Section 208 of the INA;

3. Who is a refugee admitted to the United States under Section 207 of the INA;

4. Who is paroled into the United States under Section 212(d)(5) of the INA for a period of at least one year;

5. Whose deportation from the United States is withheld under Section 243(h) of the INA as in effect before April 1, 1997, or under Section 241(b)(3) of the INA as amended to December 20, 2010;

6. Who is granted conditional entry to the United States pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;

7. Who is an Amerasian admitted to the United States as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V);

8. Who is a Cuban/Haitian entrant to the United States as described in 8 U.S.C. Section 1641(b)(7);

9. Who is a battered alien as described in 8 U.S.C. Section 1641(c);

10. Who is certified as a victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010;

11. Who is an American Indian born in Canada to whom Section 289 of the INA applies or is a member of a federally recognized Indian Tribe as defined in 25 U.S.C. Section 450b(e); or

12. Who is under the age of 21 and is lawfully residing in the United States as allowed by 42 U.S.C. Section 1396b(v)(4)(A)(ii).

"Qualifying quarters" includes all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under age 18 and all of the qualifying quarters worked by a spouse of the alien during their marriage if the alien remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

75.11(2) Citizenship and alienage.

a. To be eligible for Medicaid, a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified alien residing in the United States before August 22, 1996.

- (3) A qualified alien under the age of 21.
- (4) A refugee admitted to the United States under Section 207 of the Immigration and Nationality Act (INA).
- (5) An alien who has been granted asylum under Section 208 of the INA.
- (6) An alien whose deportation is withheld under Section 243(h) or Section 241(b)(3) of the INA.
- (7) A qualified alien veteran who has an honorable discharge that is not due to alienage.
- (8) A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.
- (9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph (7) or (8), including a surviving spouse who has not remarried.
- (10) A qualified alien who has resided in the United States for a period of at least five years.
- (11) An Amerasian admitted as described in 8 U.S.C. Section 1612(b)(2)(A)(i)(V).
- (12) A Cuban/Haitian entrant as described in 8 U.S.C. Section 1641(b)(7).
- (13) A certified victim of trafficking as described in Section 107(b)(1)(A) of Public Law 106-386 as amended to December 20, 2010.
- (14) An American Indian born in Canada to whom Section 289 of the INA applies or who is a member of a federally recognized Indian Tribe as defined in 25 U.S.C. Section 450b(e).
- (15) An Iraqi or Afghan immigrant treated as a refugee pursuant to Section 1244(g) of Public Law 110-181 as amended to December 20, 2010, or to Section 602(b)(8) of Public Law 111-8 as amended to December 20, 2010.

b. As a condition of eligibility, each member shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the member's citizenship or alien status. When the member is incompetent or deceased, the form shall be signed by someone acting responsibly on the member's behalf. An adult shall sign the form for dependent children.

(1) As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship or alien status by signing the application form which contains the same declaration.

(2) As a condition of continued eligibility, SSI-related Medicaid members not actually receiving SSI who have been continuous members since August 1, 1988, shall attest to their citizenship or alien status by signing the application form which contains a similar declaration at time of review.

(3) An attestation of citizenship or alien status completed on any one of the following forms shall meet the requirements of subrule 75.11(2) for children under the age of 19 who are otherwise eligible pursuant to 441—subrule 76.1(8):

1. Application for Food Assistance, Form 470-0306 or 470-0307 (Spanish);
2. Health and Financial Support Application, Form 470-0462 or 470-0462(S); or
3. Review/Recertification Eligibility Document, Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS).

c. Except as provided in paragraph "*f*," applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph "*b*" shall present satisfactory documentation of citizenship or nationality as defined in paragraph "*d*," "*e*," or "*i*." A reference to a form in paragraph "*d*" or "*e*" includes any successor form. An applicant or member shall have a reasonable period to obtain and provide required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the "reasonable period" begins on the date a written request for documentation or a notice pursuant to subparagraph 75.11(2)"*i*"(2) is issued to an applicant or member, whichever is later, and continues for 90 days.

(2) Medicaid shall be approved for new applicants and continue for members not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of Medicaid or HAWK-I benefits pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days under either program for each individual. An applicant or member who has already received benefits during any portion of a reasonable period shall not be granted coverage for a second reasonable period except as required to protect the confidentiality of an individual

who received only limited Medicaid benefits provided pursuant to subrule 75.1(41) during the first period.

(3) Retroactive eligibility pursuant to 441—subrule 76.5(1) is available only after documentation of citizenship or nationality has been provided pursuant to paragraph “d,” “e,” or “i.” The retroactive months are outside the “reasonable period” during which Medicaid coverage may be provided without required documentation of citizenship or nationality.

d. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

(1) A United States passport.

(2) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.

(3) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.

(4) A valid state-issued driver’s license or other identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act, but only if the state issuing the license or document either:

1. Requires proof of United States citizenship before issuance of the license or document; or

2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(5) Documentation issued by a federally recognized Indian Tribe showing membership or enrollment in or affiliation with that Tribe.

(6) Another document that provides proof of United States citizenship or nationality and provides a reliable means of documentation of personal identity, as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v).

e. Satisfactory documentation of citizenship or nationality may also be demonstrated by the combination of:

(1) Any identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act or any other documentation of personal identity that provides a reliable means of identification, as the secretary of the U.S. Department of Health and Human Services finds by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(D)(ii), and

(2) Any one of the following:

1. A certificate of birth in the United States.

2. Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.

3. Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.

4. Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.

5. Another document that provides proof of United States citizenship or nationality, as the secretary of the U.S. Department of Health and Human Services may specify pursuant to 42 U.S.C. Section 1396b(x)(3)(C)(v).

f. A person for whom an attestation of United States citizenship has been made pursuant to paragraph “b” is not required to present documentation of citizenship or nationality for Medicaid eligibility if any of the following circumstances apply:

(1) The person is entitled to or enrolled for benefits under any part of Title XVIII of the federal Social Security Act (Medicare).

(2) The person is receiving federal social security disability insurance (SSDI) benefits under Title II of the federal Social Security Act, Section 223 or 202, based on disability (as defined in Section 223(d)).

(3) The person is receiving supplemental security income (SSI) benefits under Title XVI of the federal Social Security Act.

(4) The person is a child in foster care who is assisted by child welfare services funded under Part B of Title IV of the federal Social Security Act.

(5) The person is receiving foster care maintenance or adoption assistance payments funded under Part E of Title IV of the federal Social Security Act.

(6) The person has previously presented satisfactory documentary evidence of citizenship or nationality, as specified by the United States Secretary of Health and Human Services.

(7) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1396a(e)(4) as the newborn of a Medicaid-eligible mother.

(8) The person is or was eligible for medical assistance pursuant to 42 U.S.C. Section 1397ll(e) as the newborn of a mother eligible for assistance under a State Children's Health Insurance Program (SCHIP) pursuant to Title XXI of the Social Security Act.

g. If no other identity documentation allowed by subparagraph 75.11(2)"e"(1) is available, identity may be documented by affidavit as described in this paragraph. However, affidavits cannot be used to document both identity and citizenship.

(1) For children under the age of 16, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by the child's parent, guardian, or caretaker relative under penalty of perjury.

(2) For disabled persons who live in a residential care facility, identity may be documented using Form 470-4386 or 470-4386(S), Affidavit of Identity, signed by a residential care facility director or administrator under penalty of perjury.

h. If no other documentation that provides proof of United States citizenship or nationality allowed by subparagraph 75.11(2)"e"(2) is available, United States citizenship or nationality may be documented using Form 470-4373 or 470-4373(S), Affidavit of Citizenship. However, affidavits cannot be used to document both identity and citizenship.

(1) Two affidavits of citizenship are required. The person who signs the affidavit must provide proof of citizenship and identity. A person who is not related to the applicant or member must sign at least one of the affidavits.

(2) When affidavits of citizenship are used, Form 470-4374 or 470-4374(S), Affidavit Concerning Documentation of Citizenship, or an equivalent affidavit explaining why other evidence of citizenship does not exist or cannot be obtained must also be submitted and must be signed by the applicant or member or by another knowledgeable person (guardian or representative).

i. In lieu of a document listed in paragraph "d" or "e," satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

(1) Provision of an individual's name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual's citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual's citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration's records, or to provide other documentation of citizenship or nationality pursuant to paragraph "d" or "e."

75.11(3) Deeming of sponsor's income and resources.

a. When an alien admitted for lawful permanent residence is sponsored by a person who executed an affidavit of support as described in 8 U.S.C. Section 1631(a)(1) on behalf of the alien, the income and resources of the alien shall be deemed to include the income and resources of the sponsor (and of the sponsor's spouse if living with the sponsor). The amount deemed to the sponsored alien shall be the total gross countable income and resources of the sponsor and the sponsor's spouse for the FMAP-related or SSI-related coverage group applicable to the sponsored alien's household as described in 441—75.13(249A) less the following deductions:

(1) For FMAP-related coverage groups: The same income deductions, diversions, and disregards allowed for stepparent cases as described at 75.57(8)"b" and a \$1,500 resource deduction.

(2) For SSI-related coverage groups: The deductions described at 20 CFR 416.1166a and 416.1204, as amended to April 1, 2010.

b. An indigent alien is exempt from the deeming of a sponsor's income and resources for 12 months after indigence is determined. An alien shall be considered indigent if the following are true:

(1) The alien does not live with the sponsor; and

(2) The alien's gross income, including any income actually received from or made available by the sponsor, is less than 100 percent of the federal poverty level for the sponsored alien's household size.

c. A battered alien as described in 8 U.S.C. Section 1641(c) is exempt from the deeming of a sponsor's income and resources for 12 months.

d. Deeming of the sponsor's income and resources does not apply when:

(1) The sponsored alien attains citizenship through naturalization pursuant to Chapter 2 of Title II of the Immigration and Nationality Act.

(2) The sponsored alien has earned 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with 40 qualifying quarters as defined at subrule 75.11(1).

(3) The sponsored alien or the sponsor dies.

(4) The sponsored alien is a child under age 21.

(5) For SSI-related Medicaid, the sponsored alien becomes blind or disabled as defined under Title XVI of the Social Security Act after admission to the United States as a lawful permanent resident.

(6) For SSI-related Medicaid, three years after the date the sponsored alien was admitted to the United States as a lawful permanent resident.

75.11(4) Eligibility for payment of emergency medical services. Aliens who do not meet the provisions of subrule 75.11(2) and who would otherwise qualify except for their alien status are eligible to receive Medicaid for care and services necessary for the treatment of an emergency medical condition as defined in subrule 75.11(1). To qualify for payment under this provision:

a. The alien must meet all other eligibility criteria, including state residence requirements provided at rules 441—75.10(249A) and 441—75.53(249A), with the exception of rule 441—75.7(249A) and subrules 75.11(2) and 75.11(3).

b. The medical provider who treated the emergency medical condition or the provider's designee must submit verification of the existence of the emergency medical condition on either:

(1) Form 470-4299, Verification of Emergency Health Care Services; or

(2) A signed statement that contains the same information as requested by Form 470-4299.

This rule is intended to implement Iowa Code section 249A.3.

[ARC 7932B, IAB 7/1/09, effective 7/1/09; ARC 8096B, IAB 9/9/09, effective 10/14/09; ARC 8642B, IAB 4/7/10, effective 6/1/10; ARC 8786B, IAB 6/2/10, effective 6/1/10; ARC 9439B, IAB 4/6/11, effective 6/1/11]

441—75.12(249A) Inmates of public institutions. A person is not eligible for medical assistance for any care or services received while the person is an inmate of a public institution. For the purpose of this rule, "inmate of a public institution" and "public institution" are defined by 42 CFR Section 435.1010 as amended to August 25, 2011.

75.12(1) Suspension. Medical assistance shall be suspended, rather than canceled, for the first 12 continuous calendar months that a person is an inmate of a public institution if all of the following conditions are met:

a. The department is notified of the person's entry into the public institution through either:

(1) A monthly report which is provided to the department by the public institution and includes the person's name, date of birth, and social security number and the date the person entered the institution;

or

(2) Other verified notice received by the department.

b. The person has entered a public institution on or after January 1, 2012, and has been in the public institution for 30 days or more.

c. On the date of entry into the public institution, the person was a Medicaid member.

d. The person is eligible for medical assistance as an individual except for institutional status.

75.12(2) Coverage during suspension. While medical assistance is suspended, payment will be made only for services received while the person is not an inmate of a public institution.

75.12(3) Reinstatement. The Medicaid case for an inmate who is released from a public institution while Medicaid is suspended will be reopened without an application if both of the following conditions are met:

a. The department is notified of the person's release from the public institution through either:

(1) A monthly report which is provided to the department by the public institution and includes the person's name, date of birth, and social security number and the date the person was released from the institution; or

(2) Other verified notice received by the department.

b. All information available to the department indicates that the person is currently eligible for Iowa Medicaid as an individual.

This rule is intended to implement Iowa Code section 249A.3 and 2011 Iowa Acts, Senate File 482, division IX.

[ARC 9957B, IAB 1/11/12, effective 1/1/12]

441—75.13(249A) Categorical relatedness.

75.13(1) FMAP-related Medicaid eligibility. Medicaid eligibility for persons who are under the age of 21, pregnant women, or specified relatives of dependent children who are not blind or disabled shall be determined using the income criteria in effect for the family medical assistance program (FMAP) as provided in subrule 75.1(14) unless otherwise specified. Income shall be considered prospectively.

75.13(2) SSI-related Medicaid. Except as otherwise provided in 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the Supplemental Security Income (SSI) program administered by the United States Social Security Administration.

a. SSI policy reference. The statutes, regulations, and policy governing eligibility for SSI are found in Title XVI of the Social Security Act (42 U.S.C. Sections 1381 to 1383f), in the federal regulations promulgated pursuant to Title XVI (20 CFR 416.101 to 416.2227), and in Part 5 of the Program Operations Manual System published by the United States Social Security Administration. The Program Operations Manual System is available at Social Security Administration offices in Ames, Burlington, Carroll, Cedar Rapids, Clinton, Council Bluffs, Creston, Davenport, Decorah, Des Moines, Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City, Oskaloosa, Ottumwa, Sioux City, Spencer, Storm Lake, and Waterloo, or through the Department of Human Services, Division of Financial, Health, and Work Supports, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

b. Income considered. For SSI-related Medicaid eligibility purposes, income shall be considered prospectively.

c. Trust contributions. Income that a person contributes to a trust as specified at 75.24(3)“b” shall not be considered for purposes of determining eligibility for SSI-related Medicaid.

d. Conditional eligibility. For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources, found at 20 CFR 416.1240 to 416.1245, is not considered an eligibility methodology.

e. Valuation of life estates and remainder interests. In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the life estate holder or other person whose life controls the life estate.

If a Medicaid applicant or recipient disputes the value determined using the following table, the applicant or recipient may submit other evidence and the value of the life estate or remainder interest shall be determined based on the preponderance of all the evidence submitted to or obtained by the department, including the value given by the following table.

Age	Life Estate	Remainder	Age	Life Estate	Remainder	Age	Life Estate	Remainder
0	.97188	.02812	37	.93026	.06974	74	.53862	.46138
1	.98988	.01012	38	.92567	.07433	75	.52149	.47851
2	.99017	.00983	39	.92083	.07917	76	.51441	.49559
3	.99008	.00992	40	.91571	.08429	77	.48742	.51258
4	.98981	.01019	41	.91030	.08970	78	.47049	.52951
5	.98938	.01062	42	.90457	.09543	79	.45357	.54643
6	.98884	.01116	43	.89855	.10145	80	.43569	.56341
7	.98822	.01178	44	.89221	.10779	81	.41967	.58033
8	.98748	.01252	45	.88558	.11442	82	.40295	.59705
9	.98663	.01337	46	.87863	.12137	83	.38642	.61358
10	.98565	.01435	47	.87137	.12863	84	.36998	.63002
11	.98453	.01547	48	.86374	.13626	85	.35359	.64641
12	.98329	.01671	49	.85578	.14422	86	.33764	.66236
13	.98198	.01802	50	.84743	.15257	87	.32262	.67738
14	.98066	.01934	51	.83674	.16126	88	.30859	.69141
15	.97937	.02063	52	.82969	.17031	89	.29526	.70474
16	.97815	.02185	53	.82028	.17972	90	.28221	.71779
17	.97700	.02300	54	.81054	.18946	91	.26955	.73045
18	.97590	.02410	55	.80046	.19954	92	.25771	.74229
19	.97480	.02520	56	.79006	.20994	93	.24692	.75308
20	.97365	.02635	57	.77931	.22069	94	.23728	.76272
21	.97245	.02755	58	.76822	.23178	95	.22887	.77113
22	.97120	.02880	59	.75675	.24325	96	.22181	.77819
23	.96986	.03014	60	.74491	.25509	97	.21550	.78450
24	.96841	.03159	61	.73267	.26733	98	.21000	.79000
25	.96678	.03322	62	.72002	.27998	99	.20486	.79514
26	.96495	.03505	63	.70696	.29304	100	.19975	.80025
27	.96290	.03710	64	.69352	.30648	101	.19532	.80468
28	.96062	.03938	65	.67970	.32030	102	.19054	.80946
29	.95813	.04187	66	.66551	.33449	103	.18437	.81563
30	.95543	.04457	67	.65098	.343902	104	.17856	.82144
31	.95254	.04746	68	.63610	.363690	105	.16962	.83038
32	.94942	.05058	69	.62086	.37914	106	.15488	.84512
33	.94608	.05392	70	.60522	.39478	107	.13409	.86591
34	.94250	.05750	71	.58914	.41086	108	.10068	.89932
35	.93868	.06132	72	.57261	.42739	109	.04545	.95455
36	.93460	.06540	73	.55571	.44429			

75.13(3) *Resource eligibility for SSI-related Medicaid for children.* Resources of all household members shall be disregarded when determining eligibility for children under any SSI-related coverage group except for those groups at subrules 75.1(3), 75.1(4), 75.1(6), 75.1(9), 75.1(10), 75.1(12), 75.1(13), 75.1(23), 75.1(25), 75.1(29), 75.1(33), 75.1(34), 75.1(36), 75.1(37), and 75.1(38).

This rule is intended to implement Iowa Code section 249A.3.

441—75.14(249A) Establishing paternity and obtaining support.

75.14(1) As a condition of eligibility, adult Medicaid applicants and members in households with an absent parent shall cooperate in obtaining medical support for themselves and for any other person in the household for whom Medicaid is requested and for whom the applicant or member can legally assign rights for medical support, except when the applicant or member has good cause for refusal to cooperate as defined in subrule 75.14(8).

a. The adult applicant or member shall cooperate in the following:

- (1) Identifying and locating the parent of the child for whom Medicaid is requested.
- (2) Establishing the paternity of a child born out of wedlock for whom Medicaid is requested.
- (3) Obtaining medical support and payments for medical care for the applicant or member and for a child for whom Medicaid is requested.
- (4) Rescinded IAB 2/3/93, effective 4/1/93.

b. Cooperation is defined as including the following actions by the adult applicant or member upon request:

(1) Appearing at the income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or member that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

c. Upon request, the adult applicant or member shall cooperate with the department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. Upon request, the adult applicant or member shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. The child support recovery unit shall make the determination of whether or not the adult applicant or member has cooperated for the purposes of this rule.

75.14(2) Failure of an adult applicant or member to cooperate shall result in denial or cancellation of the noncooperating adult's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.

75.14(3) Each Medicaid applicant or member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(8) to 75.14(12) shall be used when making a determination of the existence of good cause.

75.14(4) Each Medicaid applicant or member shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the applicant's or member's own behalf or on behalf of any other family member for whom the applicant or member is applying. An assignment is effective the same date the eligibility information is entered into the automated benefit calculation system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Rescinded IAB 6/2/10, effective 8/1/10.

75.14(6) Pregnant women establishing eligibility under the mothers and children (MAC) coverage group as provided at subrule 75.1(28) shall be exempt from the provisions in this rule for any born child for whom the pregnant woman applies for or receives Medicaid. Additionally, any previously pregnant woman eligible for postpartum coverage under the provision of subrule 75.1(24) shall not be subject to the provisions in this rule until after the end of the month in which the 60-day postpartum period expires. Pregnant women establishing eligibility under any other coverage groups except those set forth in subrule

75.1(24) or 75.1(28) shall be subject to the provisions in this rule when establishing eligibility for born children. However, when a pregnant woman who is subject to these provisions fails to cooperate, the woman shall lose eligibility under her current coverage group and her eligibility for Medicaid shall be automatically redetermined under subrule 75.1(28).

75.14(7) Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) that require an adult applicant or member to assign any rights to medical support and payments for medical care.

75.14(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The income maintenance unit shall determine that cooperation is against the child's best interest when the applicant's or member's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

- (1) Physical or emotional harm to the child for whom support is to be sought; or
- (2) Physical or emotional harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately.
- (3) Physical harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately; or
- (4) Emotional harm to the parent or specified relative with whom the child is living of a nature or degree that it reduces the person's capacity to care for the child adequately.

b. The income maintenance unit shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the income maintenance unit believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

- (1) The child was conceived as the result of incest or forcible rape.
- (2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (3) The applicant or member is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the specified relative, the following shall be considered:

- (1) The present emotional state of the individual subject to emotional harm.
- (2) The emotional health history of the individual subject to emotional harm.
- (3) Intensity and probable duration of the emotional impairment.
- (4) The degree of cooperation required.
- (5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

75.14(9) Claiming good cause. Each Medicaid applicant or member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. Before requiring cooperation, the department shall notify the applicant or member using Form 470-0169 or 470-0169(S), Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination.

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

- (1) Advise the applicant or member of the potential benefits the child may derive from the establishment of paternity and securing support.

(2) Advise the applicant or member that by law cooperation in establishing paternity and securing support is a condition of eligibility for the Medicaid program.

(3) Advise the applicant or member of the sanctions provided for refusal to cooperate without good cause.

(4) Advise the applicant or member that good cause for refusal to cooperate may be claimed and that if the income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or member will be excused from the cooperation requirement.

(5) Advise the applicant or member that upon request, or following a claim of good cause, the income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or member makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. To claim good cause, the applicant or member shall sign and date Form 470-0170 and return it to the income maintenance unit. This form:

(1) Indicates that the applicant or member must provide corroborative evidence of good cause circumstance and must, when requested, furnish sufficient information to permit the county office to investigate the circumstances.

(2) Informs the applicant or member that, upon request, the income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or member that on the basis of the corroborative evidence supplied and the agency's investigation when necessary, the income maintenance unit shall determine whether cooperation would be against the best interests of the child for whom support would be sought.

(4) Lists the circumstances under which cooperation may be determined to be against the best interests of the child.

(5) Informs the applicant or member that the child support recovery unit may review the income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or member that the child support recovery unit may attempt to establish paternity and collect support in those cases where the income maintenance unit determines that this can be done without risk to the applicant or member if done without the applicant's or member's participation.

d. The applicant or member who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the income maintenance unit to determine that good cause does not exist. The applicant or member shall:

(1) Specify the circumstances that the applicant or member believes provide sufficient good cause for not cooperating.

(2) Corroborate the good cause circumstances.

(3) When requested, provide sufficient information to permit an investigation.

75.14(10) Determination of good cause. The income maintenance unit shall determine whether good cause exists for each Medicaid applicant or member who claims to have good cause.

a. The income maintenance unit shall notify the applicant or member of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the income maintenance unit's findings and basis for determination.

(3) Be entered in the case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The income maintenance unit may exceed this time standard only when:

(1) The case record documents that the income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) The case record documents that the claimant did not provide corroborative evidence within the time period set forth in subrule 75.14(11).

c. When the income maintenance unit determines that good cause does not exist:

(1) The applicant or member shall be so notified and be afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in the loss of Medicaid for the person who refuses to cooperate.

d. The income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or member only after the income maintenance unit has examined the evidence and found that it actually verifies the good cause claim.

e. Before making a final determination of good cause for refusing to cooperate, the income maintenance unit shall:

(1) Afford the child support recovery unit the opportunity to review and comment on the findings and basis for the proposed determination, and

(2) Consider any recommendation from the child support recovery unit.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or member's appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or member has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The income maintenance unit shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements pertaining to cooperation in establishing paternity and securing support.

75.14(11) Proof of good cause. The applicant or member who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the income maintenance unit determines that the applicant or member requires additional time because of the difficulty in obtaining the corroborative evidence, the income maintenance unit shall allow a reasonable additional period upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or specified relative.

(4) Medical records which indicate emotional health history and present emotional health status of the specified relative or the children for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the specified relative or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the applicant or member is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or member with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or member, the income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the income maintenance unit shall:

(1) Promptly notify the applicant or member that additional corroborative evidence is needed, and

(2) Specify the type of document which is needed.

c. When the applicant or member requests assistance in securing evidence, the income maintenance unit shall:

- (1) Advise the applicant or member how to obtain the necessary documents, and
- (2) Make a reasonable effort to obtain any specific documents which the applicant or member is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or member's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

- (1) The income maintenance unit shall investigate the good cause claim when the office believes that the claim is credible without corroborative evidence and corroborative evidence is not available.
- (2) Good cause shall be found when the claimant's statement and investigation which is conducted satisfies the county office that the applicant or member has good cause for refusing to cooperate.
- (3) A determination that good cause exists shall be reviewed and approved or disapproved by the worker's immediate supervisor and the findings shall be recorded in the case record.

e. The income maintenance unit may further verify the good cause claim when the applicant's or member's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the income maintenance unit determines that it is necessary, the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the income maintenance unit shall:

- (1) Contact the absent parent or putative father from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.
- (2) Before making the necessary contact, notify the applicant or member so the applicant or member may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

75.14(12) Enforcement without specified relative's cooperation. When the income maintenance unit makes a determination that good cause exists, the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or specified relative when the enforcement or collection activities do not involve their participation.

a. The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination and the income maintenance unit shall consider any recommendations from the child support recovery unit.

b. The determination shall be in writing, contain the income maintenance unit's findings and basis for the determination, and be entered into the case record.

c. When the income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, the income maintenance unit shall notify the applicant or member to enable the individual to withdraw the application for assistance or have the case closed.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.15(249A) Disqualification for long-term care assistance due to substantial home equity. Notwithstanding any other provision of this chapter, if an individual's equity interest in the individual's home exceeds \$500,000, the individual shall not be eligible for medical assistance with respect to nursing facility services or other long-term care services except as provided in 75.15(2). This provision is effective for all applications or requests for payment of long-term care services filed on or after January 1, 2006.

75.15(1) The limit on the equity interest in the individual's home for purposes of this rule shall be increased from year to year, beginning with 2011, based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000.

75.15(2) Disqualification based on equity interest in the individual's home shall not apply when one of the following persons is lawfully residing in the home:

- a. The individual's spouse; or

b. The individual's child who is under age 21 or is blind or disabled as defined in Section 1614 of the federal Social Security Act.

This rule is intended to implement Iowa Code section 249A.4.

441—75.16(249A) Client participation in payment for medical institution care. Medicaid clients are required to participate in the cost of medical institution care. However, no client participation is charged when the combination of Medicare payments and the Medicaid benefits available to qualified Medicare beneficiaries covers the cost of institutional care.

75.16(1) Income considered in determining client participation. The department determines the amount of client participation based on the client's total monthly income, with the following exceptions:

a. *FMAP-related clients.* The income of a client and family whose eligibility is FMAP-related is not available for client participation when both of the following conditions exist:

- (1) The client has a parent or child at home.
- (2) The family's income is considered together in determining eligibility.

b. *SSI-related clients who are employed.* If a client receives SSI and is substantially gainfully employed, as determined by the Social Security Administration, the client shall have the SSI and any mandatory state supplementary assistance payment exempt from client participation for the two full months after entry to a medical institution.

c. *SSI-related clients returning home within three months.* If the Social Security Administration continues a client's SSI or federally administered state supplementary assistance payments for three months because it is expected that the client will return home within three months, these payments shall be exempt from client participation.

d. *Married couples.*

(1) Institutionalized spouse and community spouse. If there is a community spouse, only the institutionalized person's income shall be considered in determining client participation.

(2) Both spouses institutionalized. Client participation for each partner in a marriage shall be based on one-half of the couple's combined income when the partners are considered together for eligibility. Client participation for each partner who is considered individually for eligibility shall be determined individually from each person's income.

(3) Rescinded, IAB 7/11/90, effective 7/1/90.

e. *State supplementary assistance recipients.* The amount of client participation that a client paid under the state supplementary assistance program is not available for Medicaid client participation in the month of the client's entry to a medical institution.

f. *Foster care recipients.* The amount of income paid for foster care for the days that a child is in foster care in the same month as entry to a medical institution is not available for client participation.

g. *Clients receiving a VA pension.* The amount of \$90 of veteran's pension income shall be exempt from client participation if the client is a veteran or a surviving spouse of a veteran who:

- (1) Receives a reduced pension pursuant to 38 U.S.C. Section 5503(d)(2), or
- (2) Resides at the Iowa Veterans Home and does not have a spouse or minor child.

75.16(2) Allowable deductions from income. In determining the amount of client participation, the department allows the following deductions from the client's income, taken in the order they appear:

a. *Ongoing personal needs allowance.* All clients shall retain \$50 of their monthly income for a personal needs allowance. (See rules 441—81.23(249A), 441—82.19(249A), and 441—85.47(249A) regarding potential state-funded personal needs supplements.)

(1) If the client has a trust described in Section 1917(d)(4) of the Social Security Act (including medical assistance income trusts and special needs trusts), a reasonable amount paid or set aside for necessary expenses of the trust is added to the personal needs allowance. This amount shall not exceed \$10 per month except with court approval.

(2) If the client has earned income, an additional \$65 is added to the ongoing personal needs allowance from the earned income only.

(3) Rescinded IAB 7/4/07, effective 7/1/07.

b. *Personal needs in the month of entry.*

(1) Single person. A single person shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a single person.

(2) Spouses entering institutions together and living together. Partners in a marriage who enter a medical institution in the same month and live in the same room shall be given an allowance for stated home living expenses during the month of entry, up to the amount of the SSI benefit for a couple.

(3) Spouses entering an institution together but living apart. Partners in a marriage who enter a medical institution during the same month and who are considered separately for eligibility shall each be given an allowance for stated home living expenses during the month of entry, up to one-half of the amount of the SSI benefit for a married couple. However, if the income of one spouse is less than one-half of the SSI benefit for a couple, the remainder of the allowance shall be given to the other spouse. If the couple's eligibility is determined together, an allowance for stated home living expenses shall be given to them during the month of entry up to the SSI benefit for a married couple.

(4) Community spouse enters a medical institution. When the second member of a married couple enters a medical institution in a later month, that spouse shall be given an allowance for stated expenses during the month of entry, up to the amount of the SSI benefit for one person.

c. Personal needs in the month of discharge. The client shall be allowed a deduction for home living expenses in the month of discharge. The amount of the deduction shall be the SSI benefit for one person (or for a couple, if both members are discharged in the same month). This deduction does not apply when a spouse is at home.

d. Maintenance needs of spouse and other dependents.

(1) Persons covered. An ongoing allowance shall be given for the maintenance needs of a community spouse. The allowance is limited to the extent that income of the institutionalized spouse is made available to or for the benefit of the community spouse. If there are minor or dependent children, dependent parents, or dependent siblings of either spouse who live with the community spouse, an ongoing allowance shall also be given to meet their needs.

(2) Income considered. The verified gross income of the spouse and dependents shall be considered in determining maintenance needs. The gross income of the spouse and dependent shall include all monthly earned and unearned income and assistance from the family investment program (FIP), supplemental security income (SSI), and state supplementary assistance (SSA). It shall also include the proceeds of any annuity or contract for sale of real property. Otherwise, the income shall be considered as the SSI program considers income. In addition, the spouse and dependents shall be required to apply for every income benefit for which they are eligible except that they shall not be required to accept SSI, FIP or SSA in lieu of the maintenance needs allowance. Failure to apply for all benefits shall mean reduction of the maintenance needs allowance by the amount of the anticipated income from the source not applied for.

(3) Needs of spouse. The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from the maximum amount allowed as a minimum monthly maintenance needs allowance for the community spouse by Section 1924(d)(3)(C) of the Social Security Act (42 U.S.C. § 1396r-5(d)(3)(C)). (This amount is indexed for inflation annually according to the consumer price index.)

However, if either spouse has established through the appeal process that the community spouse needs income above the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance shall not be less than this amount.

(4) Needs of other dependents. The maintenance needs of the other dependents shall be established by subtracting each person's gross income from 133 percent of the monthly federal poverty level for a family of two and dividing the result by three. (Effective July 1, 1992, the percent shall be 150 percent.)

e. Maintenance needs of children (without spouse). When the client has children under 21 at home, an ongoing allowance shall be given to meet the children's maintenance needs.

The income of the children is considered in determining maintenance needs. The children's countable income shall be their gross income less the disregards allowed in the FIP program.

The children's maintenance needs shall be determined by subtracting the children's countable income from the FIP payment standard for that number of children. (However, if the children receive FIP, no deduction is allowed for their maintenance needs.)

f. Client's medical expenses. A deduction shall be allowed for the client's incurred expenses for medical or remedial care that are not subject to payment by a third party and were not incurred for long-term care services during the imposition of a transfer of assets penalty period pursuant to rule 441—75.23(249A). This includes Medicare premiums and other health insurance premiums, deductibles or coinsurance, and necessary medical or remedial care recognized under state law but not covered under the state Medicaid plan.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 8444B, IAB 1/13/10, effective 3/1/10]

441—75.17(249A) Verification of pregnancy. For the purpose of establishing Medicaid eligibility for pregnant women under this chapter, the applicant's self-declaration of the pregnancy and the date of conception shall serve as verification of pregnancy, unless questionable.

75.17(1) Multiple pregnancy. If the pregnant woman claims to be carrying more than one fetus, a medical professional who has examined the woman must verify the number of fetuses in order for more than one to be considered in the household size.

75.17(2) Cost of examination. When an examination is required and other medical resources are not available to meet the expense of the examination, the provider shall be authorized to make the examination and submit the claim for payment.

This rule is intended to implement Iowa Code section 249A.3.

441—75.18(249A) Continuous eligibility for pregnant women. A pregnant woman who applies for Medicaid prior to the end of her pregnancy and subsequently establishes initial Medicaid eligibility under the provisions of this chapter shall remain continuously eligible throughout the pregnancy and the 60-day postpartum period, as provided in subrule 75.1(24), regardless of any changes in family income.

This rule is intended to implement Iowa Code section 249A.3.

441—75.19(249A) Continuous eligibility for children. A child under the age of 19 who is determined eligible for ongoing Medicaid shall retain that eligibility for up to 12 months regardless of changes in family circumstances except as described in this rule.

75.19(1) Exceptions to coverage. This rule does not apply to the following children:

a. Children whose eligibility was determined under the newborn coverage group described at subrule 75.1(20).

b. Children whose eligibility was determined under the medically needy coverage group described at subrule 75.1(35).

c. Children whose medical assistance is state-funded only.

d. Children who are eligible only in a retroactive month.

e. Children whose citizenship is not verified within the "reasonable period" described at paragraph 75.11(2)"c."

75.19(2) Duration of coverage. Coverage under this rule shall extend through the earliest of the following months:

a. The month of the household's annual eligibility review;

b. The month when the child reaches the age of 19; or

c. The month when the child moves out of Iowa.

75.19(3) Assignment of review date. Children entering an existing Medicaid household shall be assigned the same annual eligibility review date as that established for the household.

This rule is intended to implement Iowa Code Supplement section 249A.3 as amended by 2008 Iowa Acts, House File 2539.

[ARC 8786B, IAB 6/2/10, effective 6/1/10]

441—75.20(249A) Disability requirements for SSI-related Medicaid.

75.20(1) Applicants receiving federal benefits. An applicant receiving supplemental security income on the basis of disability, social security disability benefits under Title II of the Social Security Act, or railroad retirement benefits based on the Social Security law definition of disability by the Railroad Retirement Board, shall be deemed disabled without further determination of disability.

75.20(2) Applicants not receiving federal benefits. When disability has not been established based on the receipt of social security disability or railroad retirement benefits based on the same disability criteria as used by the Social Security Administration, the department shall determine eligibility for SSI-related Medicaid based on disability as follows:

a. A Social Security Administration (SSA) disability determination under either a social security disability (Title II) application or a supplemental security income application is binding on the department until changed by SSA unless the applicant meets one of the following criteria:

(1) The applicant alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(2) The applicant alleges more than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination and alleges a new period of disability which meets the durational requirements, and has not applied to SSA for a determination with respect to these allegations.

(3) The applicant alleges less than 12 months after the most recent SSA determination denying disability that the applicant's condition has changed or deteriorated since that SSA determination, alleges a new period of disability which meets the durational requirements, and:

1. The applicant has applied to SSA for reconsideration or reopening of its disability decision and SSA refused to consider the new allegations, or

2. The applicant no longer meets the nondisability requirements for SSI but may meet the department's nondisability requirements for Medicaid eligibility.

b. When there is no binding SSA decision and the department is required to establish eligibility for SSI-related Medicaid based on disability, initial determinations shall be made by disability determination services, a bureau of the Iowa department of education under the division of vocational rehabilitation services. The applicant or the applicant's authorized representative shall complete and submit Form 470-4459 or 470-4459(S), Authorization to Disclose Information to the Department of Human Services, and either:

(1) Form 470-2465, Disability Report for Adults, if the applicant is aged 18 or over; or

(2) Form 470-3912, Disability Report for Children, if the applicant is under the age of 18.

c. When an SSA decision on disability is pending when the person applies for Medicaid or when the person applies for either Title II benefits or SSI within ten working days of the Medicaid application, the department shall stay a decision on disability pending the SSA decision on disability.

75.20(3) Time frames for decisions. Determination of eligibility based on disability shall be completed within 90 days unless the applicant or an examining physician delays or fails to take a required action, or there is an administrative or other emergency beyond the department's or applicant's control.

75.20(4) Reviews of disability. In connection with any independent determination of disability, the department will determine whether reexamination of the member's disability will be required for periodic eligibility reviews. When a disability review is required, the member or the member's authorized representative shall complete and submit the same forms as required in paragraph 75.20(2) "b."

75.20(5) Members whose disability was determined by the department. When a Medicaid member has been approved for Medicaid based on disability determined by the department and later is determined by SSA not to be disabled for SSI, the member shall continue to be considered disabled for Medicaid eligibility purposes for 65 days from the date of the SSA denial. If at the end of the 65 days there is no appeal to the SSA, Medicaid shall be canceled with timely notice. If there is an appeal within 65 days, the member shall continue to be considered disabled for Medicaid eligibility purposes until a final SSA decision.

75.20(6) Disability redeterminations for members who attain age 18. If a member is eligible based on an independent determination of disability made under the standards applicable to persons under 18 years of age, the department shall redetermine the member's disability after the member attains the age of 18 years. The member's disability shall be redetermined:

- a. Using the standards applicable to persons who are 18 years of age or older, and
- b. Regardless of whether a review of the member's disability would otherwise be due.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 9044B, IAB 9/8/10, effective 11/1/10]

441—75.21(249A) Health insurance premium payment (HIPP) program. Under the health insurance premium payment program, the department shall pay for the cost of premiums, coinsurance and deductibles for Medicaid-eligible individuals when the department determines that those costs will be less than the cost of paying for the individual's care through Medicaid. Payment shall include only the cost to the Medicaid member or household.

75.21(1) Individual health plans. Participation in an individual health plan is not a condition of Medicaid eligibility. The department shall pay for the cost of premiums, coinsurance, and deductibles of individual health insurance plans for a Medicaid member if:

- a. A household member is currently enrolled in the plan; and
- b. The health plan is cost-effective as defined in subrule 75.21(2).

75.21(2) Cost-effectiveness. Cost-effectiveness for both group and individual health plans shall mean the expenditures in Medicaid payments for a set of services are likely to be greater than the cost of paying the premiums and cost-sharing obligations under the health plan for those services. When determining the cost-effectiveness of the health plan, the following data shall be considered:

- a. The cost to the Medicaid member or household of the insurance premium, coinsurance, and deductibles. No cost paid by an employer or other plan sponsor shall be considered in the cost-effectiveness determination.
- b. The scope of services covered under the health plan, including but not limited to exclusions for preexisting conditions.
- c. The average anticipated Medicaid utilization, by age, sex, institutional status, Medicare eligibility, and coverage group, for members covered under the health plan.
- d. The specific health-related circumstances of the members covered under the health plan. The HIPP Medical History Questionnaire, Form 470-2868, shall be used to obtain this information. When the information indicates any health conditions that could be expected to result in higher than average bills for any Medicaid member:

(1) If the member is currently covered by the health plan, the department shall obtain from the insurance company a summary of the member's paid claims for the previous 12 months. If there is sufficient evidence to indicate that such claims can be expected to continue in the next 12 months, the claims will be considered in determining the cost-effectiveness of the plan. The cost of providing the health insurance is compared to the actual claims to determine the cost-effectiveness of providing the coverage.

(2) If the member was not covered by the health plan in the previous 12 months, paid Medicaid claims may be used to project the cost-effectiveness of the plan.

- e. Annual administrative expenditures of \$50 per Medicaid member covered under the health plan.
- f. Whether the estimated savings to Medicaid for members covered under the health insurance plan are at least \$5 per month per household.

75.21(3) Coverage of non-Medicaid-eligible family members.

a. When a group health plan is determined to be cost-effective, the department shall pay for health insurance premiums for non-Medicaid-eligible family members if a non-Medicaid-eligible family member must be enrolled in the health plan in order to obtain coverage for the Medicaid-eligible family members. However:

(1) The needs of the non-Medicaid-eligible family members shall not be taken into consideration when determining cost-effectiveness, and

(2) Payments for deductibles, coinsurances or other cost-sharing obligations shall not be made on behalf of family members who are not Medicaid-eligible.

b. When an individual health plan is determined cost-effective, the department shall pay for the portion of the premium necessary to cover the Medicaid-eligible family members. If the portion of the premium to cover the Medicaid-eligible family members cannot be established, the department shall pay the entire premium. The family members who are not Medicaid-eligible shall not be considered when determining cost-effectiveness.

75.21(4) *Exceptions to payment.* Premiums shall not be paid for health insurance plans under any of the following circumstances:

a. The insurance plan is that of an absent parent.
b. The insurance plan is an indemnity policy which supplements the policyholder's income or pays only a predetermined amount for services covered under the policy (e.g., \$50 per day for hospital services instead of 80 percent of the charge).

c. The insurance plan is a school plan offered on basis of attendance or enrollment at the school.
d. The premium is used to meet a spenddown obligation under the medically needy program, as provided in subrule 75.1(35), when all persons in the household are eligible or potentially eligible only under the medically needy program. When some of the household members are eligible for full Medicaid benefits under coverage groups other than medically needy, the premium shall be paid if it is determined to be cost-effective when considering only the persons receiving full Medicaid coverage. In those cases, the premium shall not be allowed as a deduction to meet the spenddown obligation for those persons in the household participating in the medically needy program.

e. The insurance plan is designed to provide coverage only for a temporary period of time (e.g., 30 to 180 days).

f. The persons covered under the plan are not Medicaid-eligible on the date the decision regarding eligibility for the HIPP program is made. No retroactive payments shall be made if the case is not Medicaid-eligible on the date of decision.

g. The person is eligible only for a coverage group that does not provide full Medicaid services, such as the specified low-income Medicare beneficiary (SLMB) coverage group in accordance with subrule 75.1(34). Members under the medically needy coverage group who must meet a spenddown are not eligible for HIPP payment.

h. Insurance coverage is being provided through the Health Insurance Plan of Iowa (HIPIOWA), in accordance with Iowa Code chapter 514E.

i. Insurance is being maintained on the Medicaid-eligible persons in the household through another source (e.g., an absent parent is maintaining insurance on the Medicaid-eligible children).

j. The person has health coverage through Medicare. If other Medicaid members in the household are covered by the health plan, cost-effectiveness is determined without including the Medicare-covered member.

k. The health plan does not provide major medical coverage but pays only for specific situations (i.e., accident plans) or illnesses (i.e., cancer policy).

l. The health plan pays secondary to another plan.

m. The only Medicaid members covered by the health plan are currently in foster care.

n. All Medicaid members covered by the health plan are eligible for Medicaid only under subrule 75.1(43). This coverage group requires the parent to apply for, enroll in, and pay for coverage available from the employer as a condition of Medicaid eligibility for the children.

75.21(5) *Duplicate policies.* When more than one cost-effective health plan is available, the department shall pay the premium for only one plan. The member may choose the cost-effective plan in which to enroll.

75.21(6) *Discontinuation of premium payments.*

a. When the household loses Medicaid eligibility, premium payments shall be discontinued as of the month of Medicaid ineligibility.

b. When only part of the household loses Medicaid eligibility, the department shall complete a review in order to ascertain whether payment of the health insurance premium continues to be

cost-effective. If the department determines that the health plan is no longer cost-effective, premium payment shall be discontinued pending timely and adequate notice.

c. If the household fails to cooperate in providing information necessary to establish ongoing eligibility, the department shall discontinue premium payment after timely and adequate notice. The department shall request all information in writing and allow the household ten calendar days in which to provide it.

d. If the policyholder leaves the Medicaid household, premium payments shall be discontinued pending timely and adequate notice.

e. If the health plan is no longer available or the policy has lapsed, premium payments shall be discontinued as of the effective date of the termination of the coverage.

75.21(7) *Effective date of premium payment.* The effective date of premium payments for a cost-effective health plan shall be determined as follows:

a. Premium payments shall begin no earlier than the later of:

(1) The first day of the month in which the Employer's Statement of Earnings, Form 470-2844, the Health Insurance Premium Payment Application, Form 470-2875, or the automated HIPP referral, Form H301-1, is received by the HIPP unit; or

(2) The first day of the first month in which the health plan is determined to be cost-effective.

b. If the person is not enrolled in the health plan when eligibility for participation in the HIPP program is established, premium payments shall begin in the month in which the first premium payment is due after enrollment occurs.

c. If there was a lapse in coverage during the application process (e.g., the health plan is dropped and reenrollment occurs at a later date), premium payments shall not be made for any period of time before the current effective date of coverage.

d. In no case shall payments be made for premiums that were used as a deduction to income when determining client participation or the amount of the spenddown obligation.

e. The Employer Verification of Insurance Coverage, Form 470-3036, shall be used to verify the effective date of coverage and costs for persons enrolled in group health plans through an employer.

f. The effective date of coverage for individual health plans or for group health plans not obtained through an employer shall be verified by a copy of the certificate of coverage for the plan or by some other verification from the insurer.

75.21(8) *Method of premium payment.* Payments of premiums will be made directly to the insurance carrier except as follows:

a. The department may arrange for payment to an employer in order to circumvent a payroll deduction.

b. When an employer will not agree to accept premium payments from the department in lieu of a payroll deduction to the employee's wages, the department shall reimburse the employee directly for payroll deductions or for payments made directly to the employer for the payment of premiums. The department shall issue reimbursement to the employee five working days before the employee's pay date.

c. When premium payments are occurring through an automatic withdrawal from a bank account by the insurance carrier, the department may reimburse the policyholder for those withdrawals.

d. Payments for COBRA coverage shall be made directly to the insurance carrier or the former employer. Payments may be made directly to the former employee only in those cases where:

(1) Information cannot be obtained for direct payment, or

(2) The department pays for only part of the total premium.

e. Reimbursements may also be paid by direct deposit to the member's own account in a financial institution or by means of electronic benefits transfer.

75.21(9) *Payment of claims.* Claims from medical providers for persons participating in this program shall be paid in the same manner as claims are paid for other persons with a third-party resource in accordance with the provisions of 441—Chapters 79 and 80.

75.21(10) *Reviews of cost-effectiveness and eligibility.* Reviews of cost-effectiveness and eligibility shall be completed annually and may be conducted more frequently at the discretion of the department.

a. For a group health plan, the review of cost-effectiveness and eligibility may be completed at the time of the health plan contract renewal date. The employer shall complete Health Insurance Premium Payment (HIPP) Program Review, Form 470-3016, for the review.

b. For individual health plans, the client shall complete HIPP Individual Policy Review, Form 470-3017, for the review.

c. Failure of the household to cooperate in the review process shall result in cancellation of premium payment.

d. Redeterminations shall be completed whenever:

- (1) A premium rate, deductible, or coinsurance changes,
- (2) A person covered under the policy loses full Medicaid eligibility,
- (3) Changes in employment or hours of employment affect the availability of health insurance,
- (4) The insurance carrier changes,
- (5) The policyholder leaves the Medicaid home, or
- (6) There is a decrease in the services covered under the policy.

e. The policyholder shall report changes that may affect the availability or cost-effectiveness of the policy within ten calendar days from the date of the change. Changes may be reported by telephone, in writing, or in person.

f. If a change in the number of members in the Medicaid household causes the health plan not to be cost-effective, lesser health plan options, as defined in paragraph 75.21(15)“a,” shall be considered if available and cost-effective.

g. When employment ends, hours of employment are reduced, or some other qualifying event affecting the availability of the group health plan occurs, the department shall verify whether coverage may be continued under the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, the Family Leave Act, or other coverage continuation provisions.

(1) The Employer Verification of COBRA Eligibility, Form 470-3037, shall be used for this purpose.

(2) If cost-effective to do so, the department shall pay premiums to maintain insurance coverage for Medicaid members after the occurrence of the event which would otherwise result in termination of coverage.

75.21(11) Time frames for determining cost-effectiveness. The department shall determine cost-effectiveness of the health plan and notify the applicant of the decision regarding payment of the premiums within 65 calendar days from the date an application or referral (as defined in subrule 75.21(7)) is received. Additional time may be taken when, for reasons beyond the control of the department or the applicant, information needed to establish cost-effectiveness cannot be obtained within the 65-day period.

75.21(12) Notices.

a. An adequate notice shall be provided to the household under the following circumstances:

- (1) To inform the household of the initial decision on cost-effectiveness and premium payment.
- (2) To inform the household that premium payments are being discontinued because Medicaid eligibility has been lost by all persons covered under the health plan.
- (3) The health plan is no longer available to the family (e.g., the employer drops insurance coverage or the policy is terminated by the insurance company).

b. The department shall provide a timely and adequate notice as defined in 441—subrule 7.7(1) to inform the household of a decision to discontinue payment of the health insurance premium because:

- (1) The department has determined the health plan is no longer cost-effective, or
- (2) The member has failed to cooperate in providing information necessary to establish continued eligibility for the program.

75.21(13) Rate refund. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policyholder is due for any time period for which the department paid the premium.

75.21(14) Reinstatement of eligibility.

a. When eligibility for the HIPP program is canceled because the persons covered under the health plan lose Medicaid eligibility, HIPP eligibility shall be reinstated when Medicaid eligibility is reestablished if all other eligibility factors are met.

b. When HIPP eligibility is canceled because of the member's failure to cooperate in providing information necessary to establish continued eligibility for the HIPP program, benefits shall be reinstated the first day of the first month in which cooperation occurs, if all other eligibility factors are met.

75.21(15) Amount of premium paid.

a. For group health plans, the individual eligible to enroll in the plan shall provide verification of the cost of all possible health plan options (i.e., single, employee/children, family).

(1) The HIPP program shall pay only for the option that provides coverage to the Medicaid-eligible family members in the household and is determined to be cost-effective.

(2) The HIPP program shall not pay the portion of the premium cost which is the responsibility of the employer or other plan sponsor.

b. For individual health plans, the HIPP program shall pay the cost of covering the Medicaid members covered by the plan.

c. For both group and individual health plans, if another household member must be covered to obtain coverage for the Medicaid members, the HIPP program shall pay the cost of covering that household member if the coverage is cost-effective as determined pursuant to subrules 75.21(2) and 75.21(3).

75.21(16) Reporting changes. Failure to report and verify changes may result in cancellation of Medicaid benefits.

a. The client shall verify changes in an employer-sponsored health plan by providing a pay stub reflecting the change or a statement from the employer.

b. Changes in employment or the employment-related insurance carrier shall be verified by the employer.

c. The client shall verify changes in individual policies, such as premiums or deductibles, with a statement from the insurance carrier.

d. Any benefits paid during a period in which there was ineligibility for HIPP due to unreported changes shall be subject to recovery in accordance with the provisions of 441—Chapter 11.

e. Any underpayment that results from an unreported change shall be paid effective the first day of the month in which the change is reported.

This rule is intended to implement Iowa Code section 249A.3.

[ARC 7935B, IAB 7/1/09, effective 9/1/09; ARC 8503B, IAB 2/10/10, effective 1/13/10; ARC 1447C, IAB 4/30/14, effective 7/1/14]

441—75.22(249A) AIDS/HIV health insurance premium payment program. For the purposes of this rule, "AIDS" and "HIV" are defined in accordance with Iowa Code section 141A.1.

75.22(1) Conditions of eligibility. The department shall pay for the cost of continuing health insurance coverage to persons with AIDS or HIV-related illnesses when the following criteria are met:

a. The person with AIDS or HIV-related illness shall be the policyholder, or the spouse of the policyholder, of an individual or group health plan.

b. The person shall be a resident of Iowa in accordance with the provisions of rule 441—75.10(249A).

c. The person shall not be eligible for Medicaid. The person shall be required to apply for Medicaid benefits when it appears Medicaid eligibility may exist. Persons who are required to meet a spenddown obligation under the medically needy program, as provided in subrule 75.1(35), are not considered Medicaid-eligible for the purpose of establishing eligibility under these provisions.

When Medicaid eligibility is attained, premium payments shall be made under the provisions of rule 441—75.21(249A) if all criteria of that rule are met.

d. A physician's statement shall be provided verifying the policyholder or the spouse of the policyholder suffers from AIDS or an HIV-related illness. The physician's statement shall also verify that the policyholder or the spouse of the policyholder is or will be unable to continue employment in

the person's current position or that hours of employment will be significantly reduced due to AIDS or HIV-related illness. The Physician's Verification of Diagnosis, Form 470-2958, shall be used to obtain this information from the physician.

e. Gross income shall not exceed 300 percent of the federal poverty level for a family of the same size. The gross income of all family members shall be counted using the definition of gross income under the supplemental security income (SSI) program.

f. Liquid resources shall not exceed \$10,000 per household. The following are examples of countable resources:

- (1) Unobligated cash.
- (2) Bank accounts.
- (3) Stocks, bonds, certificates of deposit, excluding Internal Revenue Service defined retirement plans.

g. The health insurance plan must be cost-effective based on the amount of the premium and the services covered.

75.22(2) Application process.

a. Application. Persons applying for participation in this program shall complete the AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953. The applicant shall be required to provide documentation of income and assets. The application shall be available from and may be filed at any county departmental office or at the Division of Medical Services, Department of Human Services, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

An application shall be considered as filed on the date an AIDS/HIV Health Insurance Premium Payment Application, Form 470-2953, containing the applicant's name, address and signature is received and date-stamped in any county departmental office or the division of medical services.

b. Time limit for decision. Every reasonable effort will be made to render a decision within 30 days. Additional time for rendering a decision may be taken when, due to circumstances beyond the control of the applicant or the department, a decision regarding the applicant's eligibility cannot be reached within 30 days (e.g., verification from a third party has not been received).

c. Eligible on the day of decision. No payments will be made for current or retroactive premiums if the person with AIDS or an HIV-related illness is deceased prior to a final eligibility determination being made on the application, if the insurance plan has lapsed, or if the person has otherwise lost coverage under the insurance plan.

d. Waiting list. After funds appropriated for this purpose are obligated, pending applications shall be denied by the division of medical services. A denial shall require a notice of decision to be mailed within ten calendar days following the determination that funds have been obligated. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications were filed. In the event that more than one application is received at one time, applicants shall be entered on the waiting list on the basis of the day of the month of the applicant's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

75.22(3) Presumed eligibility The applicant may be presumed eligible to participate in the program for a period of two calendar months or until a decision regarding eligibility can be made, whichever is earlier. Presumed eligibility shall be granted when:

a. The application is accompanied by a completed Physician's Verification of Diagnosis, Form 470-2958.

b. The application is accompanied by a premium statement from the insurance carrier indicating the policy will lapse before an eligibility determination can be made.

c. It can be reasonably anticipated that the applicant will be determined eligible from income and resource statements on the application.

75.22(4) Family coverage. When the person is enrolled in a policy that provides health insurance coverage to other members of the family, only that portion of the premium required to maintain coverage

for the policyholder or the policyholder's spouse with AIDS or an HIV-related illness shall be paid under this rule unless modification of the policy would result in a loss of coverage for the person with AIDS or an HIV-related illness.

75.22(5) Method of premium payment. Premiums shall be paid in accordance with the provisions of subrule 75.21(8).

75.22(6) Effective date of premium payment. Premium payments shall be effective with the month of application or the effective date of eligibility, whichever is later.

75.22(7) Reviews. The circumstances of persons participating in the program shall be reviewed quarterly to ensure eligibility criteria continues to be met. The AIDS/HIV Health Insurance Premium Payment Program Review, Form 470-2877, shall be completed by the recipient or someone acting on the recipient's behalf for this purpose.

75.22(8) Termination of assistance. Premium payments for otherwise eligible persons shall be paid under this rule until one of the following conditions is met:

- a. The person becomes eligible for Medicaid. In which case, premium payments shall be paid in accordance with the provisions of rule 441—75.21(249A).
- b. The insurance coverage is no longer available.
- c. Maintaining the insurance plan is no longer considered the most cost-effective way to pay for medical services.
- d. Funding appropriated for the program is exhausted.
- e. The person with AIDS or an HIV-related illness dies.
- f. The person fails to provide requested information necessary to establish continued eligibility for the program.

75.22(9) Notices.

a. An adequate notice as defined in 441—subrule 7.7(1) shall be provided under the following circumstances:

- (1) To inform the applicant of the initial decision regarding eligibility to participate in the program.
- (2) To inform the recipient that premium payments are being discontinued under these provisions because Medicaid eligibility has been attained and premium payments will be made under the provisions of rule 441—75.21(249A).
- (3) To inform the recipient that premium payments are being discontinued because the policy is no longer available.
- (4) To inform the recipient that premium payments are being discontinued because funding for the program is exhausted.
- (5) The person with AIDS or an HIV-related illness dies.

b. A timely and adequate notice as defined in 441—subrule 7.7(1) shall be provided to the recipient informing the recipient of a decision to discontinue payment of the health insurance premium when the recipient no longer meets the eligibility requirements of the program or fails to cooperate in providing information to establish eligibility.

75.22(10) Confidentiality. The department shall protect the confidentiality of persons participating in the program in accordance with Iowa Code section 141A.9. When it is necessary for the department to contact a third party to obtain information in order to determine initial or ongoing eligibility, a Consent to Obtain and Release Information, Form 470-0429, shall be signed by the recipient authorizing the department to make the contact.

This rule is intended to implement Iowa Code section 249A.4.

441—75.23(249A) Disposal of assets for less than fair market value after August 10, 1993. In determining Medicaid eligibility for persons described in 441—Chapters 75 and 83, a transfer of assets occurring after August 10, 1993, will affect Medicaid payment for medical services as provided in this rule.

75.23(1) Ineligibility for services. When an individual or spouse has transferred or disposed of assets for less than fair market value as defined in 75.23(11) on or after the look-back date specified in 75.23(2), the individual shall be ineligible for medical assistance as provided in this subrule.

a. Institutionalized individual. When an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the institutionalized individual is ineligible for medical assistance payment for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home- and community-based waiver services. The period of ineligibility is equal to the number of months specified in 75.23(3). The department shall determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving nursing facility services, a level of care in any institution equivalent to that of nursing facility services, or home- and community-based waiver services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

b. Noninstitutionalized individual. When a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date, the individual is ineligible for medical assistance payment for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services. The period of ineligibility is equal to the number of months specified in 75.23(3). The department shall determine the beginning of the period of ineligibility as follows:

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving home health care services, home and community care for functionally disabled elderly individuals, personal care services, or other long-term care services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

c. Client participation after period of ineligibility. Expenses incurred for long-term care services during a transfer of assets penalty period may not be deducted as medical expenses in determining client participation pursuant to subrule 75.16(2).

75.23(2) Look-back date.

a. Transfer before February 8, 2006. For transfers made before February 8, 2006, the look-back date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

b. Transfer on or after February 8, 2006. For transfers made on or after February 8, 2006, the look-back date is the date that is 60 months before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, 2014, through June 30, 2015, this average statewide cost shall be \$5,103.24 per month or \$167.87 per day.

75.23(4) *Reduction of period of ineligibility.* The number of months of ineligibility otherwise determined with respect to the disposal of an asset shall be reduced by the months of ineligibility applicable to the individual prior to a change in institutional status.

75.23(5) *Exceptions.* An individual shall not be ineligible for medical assistance, under this rule, to the extent that:

- a. The assets transferred were a home and title to the home was transferred to either:
 - (1) A spouse of the individual.
 - (2) A child of the individual who is under the age of 21 or is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c.
 - (3) A sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the individual became institutionalized.
 - (4) A son or daughter of the individual who was residing in the individual's home for a period of at least two years immediately before the date of institutionalization and who provided care to the individual which permitted the individual to reside at home rather than in an institution or facility.
- b. The assets were transferred:
 - (1) To the individual's spouse or to another for the sole benefit of the individual's spouse.
 - (2) From the individual's spouse to another for the sole benefit of the individual's spouse.
 - (3) To a child of the individual who is blind or permanently and totally disabled as defined in 42 U.S.C. Section 1382c or to a trust established solely for the benefit of such a child.
 - (4) To a trust established solely for the benefit of an individual under 65 years of age who is disabled as defined in 42 U.S.C. Section 1382c.
- c. A satisfactory showing is made that one of the following is true:
 - (1) The individual intended to dispose of the assets either at fair market value, or for other valuable consideration.
 - (2) The assets were transferred exclusively for a purpose other than to qualify for medical assistance.
 - (3) All assets transferred for less than fair market value have been returned to the individual.
- d. The denial of eligibility would work an undue hardship. Undue hardship shall exist only when all of the following conditions are met:
 - (1) Application of the transfer of asset penalty would deprive the individual of medical care such that the individual's health or life would be endangered or of food, clothing, shelter, or other necessities of life.
 - (2) The person who transferred the resource or the person's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.
 - (3) The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources except for:
 1. The home if occupied by a dependent relative or if a licensed physician verifies that the person is expected to return home.
 2. Household goods.
 3. A vehicle required by the client for transportation.
 4. Funds for burial of \$4,000 or less.

Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless

the client demonstrates that payments cannot be obtained from the funds of the person who handled the financial affairs to pay for long-term care services.

75.23(6) *Assets held in common.* In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset, or the affected portion of the asset, shall be considered to be transferred by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of the asset.

75.23(7) *Transfer by spouse.* In the case of a transfer by a spouse of an individual which results in a period of ineligibility for medical assistance under the state plan for the individual, the period of ineligibility shall be apportioned between the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the state plan. The remaining penalty period shall be evenly divided on a monthly basis, with any remaining month of penalty (prorated as a half month to each spouse) applied to the spouse who initiated the transfer action.

If a spouse subsequently dies prior to the end of the penalty period, the remaining penalty period shall be applied to the surviving spouse's period of ineligibility.

75.23(8) *Definitions.* In this rule the following definitions apply:

"Assets" shall include all income and resources of the individual and the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by:

1. The individual or the individual's spouse.
2. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.
3. Any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"Income" shall be defined by 42 U.S.C. Section 1382a.

"Institutionalized individual" shall mean an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility or who is eligible for home- and community-based waiver services.

"Resources" shall be defined by 42 U.S.C. Section 1382b without regard (in the case of an institutionalized individual) to the exclusion of the home and land appertaining thereto.

"Transfer or disposal of assets" means any transfer or assignment of any legal or equitable interest in any asset as defined above, including:

1. Giving away or selling an interest in an asset;
 2. Placing an interest in an asset in a trust that is not available to the grantor (see 75.24(2) "b"(2));
 3. Removing or eliminating an interest in a jointly owned asset in favor of other owners;
 4. Disclaiming an inheritance of any property, interest, or right pursuant to Iowa Code section 633.704 on or after July 1, 2000 (see Iowa Code section 249A.3(11) "c");
 5. Failure to take a share of an estate as a surviving spouse (also known as "taking against a will") on or after July 1, 2000, to the extent that the value received by taking against the will would have exceeded the value of the inheritance received under the will (see Iowa Code section 249A.3(11) "d");
- or
6. Transferring or disclaiming the right to income not yet received.

75.23(9) *Purchase of annuities.* Funds used to purchase an annuity for more than its fair market value shall be treated as assets transferred for less than fair market value regardless of when the annuity was purchased or whether the conditions described in this subrule were met.

a. The entire amount used to purchase an annuity on or after February 8, 2006, with a Medicaid applicant or member as the annuitant shall be treated as assets transferred for less than fair market value unless the annuity meets one of the conditions described in paragraph 75.23(9) "b" and also meets the condition described in paragraph 75.23(9) "c."

b. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9) "a" must meet one of the following conditions:

(1) The annuity is an annuity described in Subsection (b) or (q) of Section 408 of the United States Internal Revenue Code of 1986.

(2) The annuity is purchased with proceeds from:

1. An account or trust described in Subsection (a), (c), or (p) of Section 408 of the United States Internal Revenue Code of 1986;

2. A simplified employee pension (within the meaning of Section 408(k) of the United States Internal Revenue Code of 1986); or

3. A Roth IRA described in Section 408A of the United States Internal Revenue Code of 1986.

(3) The annuity:

1. Is irrevocable and nonassignable;

2. Is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration); and

3. Provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

c. To be exempted from treatment as an asset transferred at less than fair market value, an annuity described in paragraph 75.23(9) "a" must have Iowa named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant's spouse, if either is institutionalized. Iowa may be named either:

(1) In the first position; or

(2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

d. The entire amount used to purchase an annuity on or after February 8, 2006, with the spouse of a Medicaid applicant or member as the annuitant shall be treated as assets transferred for less than fair market value unless Iowa is named as the remainder beneficiary for at least the total amount of medical assistance paid on behalf of the annuitant or the annuitant's spouse, if either is institutionalized. Iowa may be named either:

(1) In the first position; or

(2) In the second position after the spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

75.23(10) Purchase of promissory notes, loans, or mortgages.

a. Funds used to purchase a promissory note, loan, or mortgage after February 8, 2006, shall be treated as assets transferred for less than fair market value in the amount of the outstanding balance due on the note, loan, or mortgage as of the date of the individual's application for medical assistance for services described in 75.23(1), unless the note, loan, or mortgage meets all of the following conditions:

(1) The note, loan, or mortgage has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration).

(2) The note, loan, or mortgage provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made.

(3) The note, loan, or mortgage prohibits the cancellation of the balance upon the death of the lender.

b. Funds used to purchase a promissory note, loan, or mortgage for less than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

(1) The note, loan, or mortgage was purchased before February 8, 2006; or

(2) The note, loan, or mortgage was purchased on or after February 8, 2006, and the conditions described in 75.23(9) "a" were met.

75.23(11) Purchase of life estates.

a. The entire amount used to purchase a life estate in another individual's home after February 8, 2006, shall be treated as assets transferred for less than fair market value, unless the purchaser resides in the home for at least one year after the date of the purchase.

b. Funds used to purchase a life estate in another individual's home for more than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

- (1) The life estate was purchased before February 8, 2006; or
- (2) The life estate was purchased on or after February 8, 2006, and the purchaser resided in the home for one year after the date of purchase.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

[ARC 7834B, IAB 6/3/09, effective 7/8/09; ARC 8444B, IAB 1/13/10, effective 3/1/10; ARC 8898B, IAB 6/30/10, effective 7/1/10; ARC 9404B, IAB 3/9/11, effective 5/1/11; ARC 9582B, IAB 6/29/11, effective 7/1/11; ARC 0192C, IAB 7/11/12, effective 7/1/12; ARC 0821C, IAB 7/10/13, effective 7/1/13; ARC 1484C, IAB 6/11/14, effective 7/1/14]

441—75.24(249A) Treatment of trusts established after August 10, 1993. For purposes of determining an individual's eligibility for, or the amount of, medical assistance benefits, trusts established after August 10, 1993, (except for trusts specified in 75.24(3)) shall be treated in accordance with 75.24(2).

75.24(1) Establishment of trust.

a. For the purposes of this rule, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the principal of the trust and if any of the following individuals established the trust other than by will: the individual, the individual's spouse, a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse), or a person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

b. The term "assets," with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action by the individual or the individual's spouse, by a person (including a court or administrative body, with legal authority to act in place of or on behalf of the individual's spouse), or by any person (including a court or administrative body) acting at the direction or upon the request of the individual or the individual's spouse.

c. In the case of a trust, the principal of which includes assets of an individual and assets of any other person or persons, the provisions of this rule shall apply to the portion of the trust attributable to the individual.

d. This rule shall apply without regard to:

- (1) The purposes for which a trust is established.
- (2) Whether the trustees have or exercise any discretion under the trust.
- (3) Any restrictions on when or whether distribution may be made for the trust.
- (4) Any restriction on the use of distributions from the trust.

e. The term "trust" includes any legal instrument or device that is similar to a trust, including a conservatorship.

75.24(2) Treatment of revocable and irrevocable trusts.

a. In the case of a revocable trust:

- (1) The principal of the trust shall be considered an available resource.
- (2) Payments from the trust to or for the benefit of the individual shall be considered income of the individual.
- (3) Any other payments from the trust shall be considered assets disposed of by the individual, subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

b. In the case of an irrevocable trust:

(1) If there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the principal from which, or the income on the principal from which, payment to the individual could be made shall be considered an available resource to the individual and payments from that principal or income to or for the benefit of the individual shall be considered income to the individual. Payments for any other purpose shall be considered a transfer of assets by the individual subject to the penalties described at rule 441—75.23(249A) and 441—Chapter 89.

(2) Any portion of the trust from which, or any income on the principal from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be

assets disposed of by the individual subject to the penalties specified at 75.23(3) and 441—Chapter 89. The value of the trust shall be determined for this purpose by including the amount of any payments made from this portion of the trust after this date.

75.24(3) Exceptions. This rule shall not apply to any of the following trusts:

a. A trust containing the assets of an individual under the age of 65 who is disabled (as defined in Section 1614(a)(3) of the Social Security Act) and which is established for the benefit of the individual by a parent, grandparent, legal guardian of the individual, or a court if the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, 2014, to June 30, 2015, shall be as follows:

- (1) The average statewide charge to a private-pay resident of a nursing facility is \$4,666 per month.
- (2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is \$25,040 per month.
- (3) The average statewide charge to a resident of a mental health institute is \$20,498 per month.
- (4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is \$6,297 per month.
- (5) The average statewide charge to a home- and community-based waiver applicant or member shall be consistent with the level of care determination and correspond with the average charges and rates set forth in this paragraph.

c. A trust containing the assets of an individual who is disabled (as defined in 1614(a)(3) of the Social Security Act) that meets the following conditions:

- (1) The trust is established and managed by a nonprofit association.
- (2) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.
- (3) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in 1614(a)(3) of the Social Security Act) by the parent, grandparent, or legal guardian of the individuals, by the individuals or by a court.
- (4) To the extent that amounts remaining in the beneficiary's account upon death of the beneficiary are not retained by the trust, the trust pays to the state from the remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 7834B, IAB 6/3/09, effective 7/8/09; ARC 8898B, IAB 6/30/10, effective 7/1/10; ARC 9582B, IAB 6/29/11, effective 7/1/11; ARC 0192C, IAB 7/11/12, effective 7/1/12; ARC 0822C, IAB 7/10/13, effective 7/1/13; ARC 0821C, IAB 7/10/13, effective 7/1/13; ARC 1484C, IAB 6/11/14, effective 7/1/14; ARC 1483C, IAB 6/11/14, effective 7/1/14]

441—75.25(249A) Definitions. Unless otherwise specified, the definitions in this rule shall apply to 441—Chapters 75 through 85 and 88.

“*Aged*” shall mean a person 65 years of age or older.

“*Applicant*” shall mean a person who is requesting assistance, including recertification under the medically needy program, on the person's own behalf or on behalf of another person. This also includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

“*Blind*” shall mean a person with central visual acuity of 20/200 or less in the better eye with use of corrective lens or visual field restriction to 20 degrees or less.

“*Break in assistance*” for medically needy shall mean the lapse of more than three months from the end of the medically needy certification period to the beginning of the next current certification period.

“*Central office*” shall mean the state administrative office of the department of human services.

“*Certification period*” for medically needy shall mean the period of time not to exceed two consecutive months in which a person is conditionally eligible.

“*Client*” shall mean all of the following:

1. A Medicaid applicant;
2. A Medicaid member;
3. A person who is conditionally eligible for Medicaid; and
4. A person whose income or assets are considered in determining eligibility for an applicant or member.

“*CMAP-related medically needy*” shall mean those individuals under the age of 21 who would be eligible for the child medical assistance program except for excess income or resources.

“*Community spouse*” shall mean a spouse of an institutionalized spouse for the purposes of rules 441—75.5(249A), 441—75.16(249A), and 441—76.10(249A).

“*Conditionally eligible*” shall mean that a person has completed the application process and has been assigned a medically needy certification period and spenddown amount but has not met the spenddown amount for the certification period or has been assigned a monthly premium but has not yet paid the premium for that month.

“*Coverage group*” shall mean a group of persons who meet certain common eligibility requirements.

“*Department*” shall mean the Iowa department of human services.

“*Disabled*” shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or is expected to last for a continuous period of not less than 12 months from the date of application.

“*FMAP-related medically needy*” shall mean those persons who would be eligible for the family medical assistance program except for excess income or resources.

“*Health insurance*” shall mean protection which provides payment of benefits for covered sickness or injury.

“*Incurred medical expenses*” for medically needy shall mean (1) medical bills paid by a client, responsible relative, or state or political subdivision program other than Medicaid during the retroactive certification period or certification period, or (2) unpaid medical expenses for which the client or responsible relative remains obligated.

“*Institutionalized person*” shall mean a person who is an inpatient in a nursing facility or a Medicare-certified skilled nursing facility, who is an inpatient in a medical institution and for whom payment is made based on a level of care provided in a nursing facility, or who is a person described in 75.1(18) for the purposes of rule 441—75.5(249A).

“*Institutionalized spouse*” shall mean a married person living in a medical institution, or nursing facility, or home- and community-based waiver setting who is likely to remain living in these circumstances for at least 30 consecutive days, and whose spouse is not in a medical institution or nursing facility for the purposes of rules 441—75.5(249A), 441—75.16(249A), and 441—76.10(249A).

“*Local office*” shall mean the county office of the department of human services or the mental health institute or hospital school.

“*Medically needy income level (MNIL)*” shall mean 133 1/3 percent of the schedule of basic needs based on family size. (See subrule 75.58(2).)

“*Member*” shall mean a person who has been determined eligible for medical assistance under rule 441—75.1(249A). For the medically needy program, “member” shall mean a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced countable income to the MNIL during the certification period through spenddown. “Member” may be used interchangeably with “recipient.” This definition does not apply to the phrase “household member.”

“*Necessary medical and remedial services*” for medically needy shall mean medical services recognized by law which are currently covered under the Iowa Medicaid program.

“*Noncovered Medicaid services*” for medically needy shall mean medical services that are not covered under Medicaid because the provider was not enrolled in Medicaid, the bill is for a responsible relative who is not in the Medicaid-eligible group or the bill is for services delivered before the start of a certification period.

“*Nursing facility services*” shall mean the level of care provided in a medical institution licensed for nursing services or skilled nursing services for the purposes of rule 441—75.23(249A).

“*Obligated medical expense*” for medically needy shall mean a medical expense for which the client or responsible relative continues to be legally liable.

“*Ongoing eligibility*” for medically needy shall mean that eligibility continues for an SSI-related, CMAP-related, or FMAP-related medically needy person with a zero spenddown.

“*Pay and chase*” shall mean that the state pays the total amount allowed under the agency’s payment schedule and then seeks reimbursement from the liable third party. The pay and chase provision applies to Medicaid claims for prenatal care, for preventive pediatric services, and for all services provided to a person for whom there is court-ordered medical support.

“*Payee*” refers to an SSI payee as defined in Iowa Code subsections 633.33(7) and 633.3(20).

“*Recertification*” in the medically needy coverage group shall mean establishing a new certification period when the previous period has expired and there has not been a break in assistance.

“*Recipient*” shall mean a person who is receiving assistance including receiving assistance for another person.

“*Responsible relative*” for medically needy shall mean a spouse, parent, or stepparent living in the household of the client.

“*Retroactive certification period*” for medically needy shall mean one, two, or three calendar months prior to the date of application. The retroactive certification period begins with the first month Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

“*Retroactive period*” shall mean the three calendar months immediately preceding the month in which an application is filed.

“*Spenddown*” shall mean the process by which a medically needy person obligates excess income for allowable medical expenses to reduce income to the appropriate MNIL.

“*SSI-related*” shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except that income shall be considered prospectively.

“*SSI-related medically needy*” shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except for income or resources.

“*Supply*” shall mean the requested information is received by the department by the specified due date.

“*Transfer of assets*” shall mean transfer of resources or income for less than fair market value for the purposes of rule 441—75.23(249A). For example, a transfer of resources or income could include establishing a trust, contributing to a charity, removing a name from a resource or income, or reducing ownership interest in a resource or income.

“*Unborn child*” shall include an unborn child during the entire term of pregnancy.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.
[ARC 7935B, IAB 7/1/09, effective 9/1/09]

441—75.26(249A) References to the family investment program. Rescinded IAB 10/8/97, effective 12/1/97.

441—75.27(249A) AIDS/HIV settlement payments. The following payments are exempt as income and resources when determining eligibility for or the amount of Medicaid benefits under any coverage group if the payments are kept in a separate, identifiable account:

75.27(1) Class settlement payments. Payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation, et al.*, 96-C-5024 (N.D. Ill.) are exempt.

75.27(2) Other settlement payments. Payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement referred to in subrule 75.27(1) and that is signed by all affected parties in the cases on or before the later of December 31, 1997, or the date that is 270 days

after the date on which the release is first sent to the person (or the legal representative of the person) to whom payment is to be made are exempt.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

441—75.28(249A) Recovery.

75.28(1) Definitions.

“*Administrative overpayment*” means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare Part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

“*Agency error*” means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

“*Client*” means a current or former Medicaid member.

“*Client error*” means medical assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. “*Client error*” also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.15(249A).

“*Department*” means the department of human services.

“*Premiums paid for medical assistance*” means monthly premiums assessed to a member or household for Medicaid, IowaCare or the Iowa Health and Wellness Plan coverage.

75.28(2) Amount subject to recovery. The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error or administrative overpayment.

75.28(3) Notification. All clients shall be promptly notified on Form 470-2891, Notice of Medical Assistance Overpayment, when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures shall include:

- (1) For whom assistance was paid;
- (2) The period during which assistance was incorrectly paid;
- (3) The amount of assistance subject to recovery; and
- (4) The reason for the incorrect expenditure.

b. Notification of unpaid premiums shall include:

- (1) The amount of the premium; and
- (2) The month covered by the medical assistance premium.

75.28(4) Source of recovery. Recovery shall be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

75.28(5) Repayment. The repayment of incorrectly expended Medicaid funds shall be made to the department. However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an intermediate care facility for persons with an intellectual disability, or mental health institute enrolled as an inpatient psychiatric

facility may be made by the client to the facility. The department shall then recover the funds from the facility through a vendor adjustment.

75.28(6) Appeals. The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

75.28(7) Estate recovery. Medical assistance is subject to recovery from the estate of a Medicaid member, the estate of the member's surviving spouse, or the estate of the member's surviving child as provided in this subrule. Effective January 1, 2010, medical assistance that has been paid for Medicare cost sharing or for benefits described in Section 1902(a)(10)(E) of the Social Security Act is not subject to recovery. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.5(2) "d." The classification of the debt is defined at Iowa Code section 633.425(7).

a. Definition of estate. For the purpose of this subrule, the "estate" of a Medicaid member, a surviving spouse, or a surviving child shall include all real property, personal property, or any other asset in which the member, spouse, or surviving child had any legal title or interest at the time of death, or at the time a child reaches the age of 21, to the extent of that interest. An estate includes, but is not limited to, interest in jointly held property, retained life estates, and interests in trusts.

b. Debt due for member 55 years of age or older. Receipt of medical assistance when a member is 55 years of age or older creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994.

c. Debt due for member under the age of 55 in a medical institution.

(1) Receipt of medical assistance creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994, when the member:

1. Is under the age of 55; and
2. Is a resident of a nursing facility, an intermediate care facility for persons with an intellectual disability, or a mental health institute; and
3. Cannot reasonably be expected to be discharged and return home.

(2) If the member is discharged from the facility and returns home before staying six consecutive months, no debt will be assessed for medical assistance payments made on the member's behalf for the time in the institution.

(3) If the member remains in the facility for six consecutive months or longer or dies before staying six consecutive months, the department shall presume that the member cannot or could not reasonably be expected to be discharged and return home and a debt due shall be established. The department shall notify the member of the presumption and the establishment of a debt due.

d. Request for a determination of ability to return home. Upon receipt of a notice of the establishment of a debt due based on the presumption that the member cannot return home, the member or someone acting on the member's behalf may request that the department determine whether the member can or could reasonably have been expected to return home.

(1) When a written request is made within 30 days of the notice that a debt due will be established, no debt due shall be established until the department has made a decision on the member's ability to return home. If the determination is that there is or was no ability to return home, a debt due shall be established for all medical assistance as of the date of entry into the institution.

(2) When a written request is made more than 30 days after the notice that a debt due will be established, a debt due will be established for medical assistance provided before the request even if the determination is that the member can or could have returned home.

e. Determination of ability to return home. When the member or someone acting on the member's behalf requests that the department determine if the member can or could have returned home, the determination shall be made by the Iowa Medicaid enterprise (IME) medical services unit.

(1) The IME medical services unit cannot make a determination until the member has been in an institution at least six months or after the death of the member, whichever is earlier. The IME medical services unit will notify the member or the member's representative and the department of the determination.

(2) If the determination is that the member can or could return home, the IME medical services unit shall establish the date the return is expected or could have been expected to occur.

(3) If the determination is that the member cannot or could not return home, a debt due will be established unless the member or the member's representative asks for a reconsideration of the decision. The IME medical services unit will notify the member or the member's representative and the department of the reconsideration decision.

(4) If the reconsideration decision is that the member cannot or could not return home, a debt due will be established against the member unless the decision is appealed pursuant to 441—Chapter 7. The appeal decision will determine the final outcome for the establishment of a debt due and the period when the debt is established.

f. Debt collection.

(1) A nursing facility participating in the medical assistance program shall notify the IME revenue collection unit upon the death of a member residing in the facility by submitting Form 470-4331, Estate Recovery Program Nursing Home Referral.

(2) Upon receipt of Form 470-4331 or a report of a member's death through other means, the IME revenue collection unit will use Form 470-4339, Medical Assistance Debt Response, to request a statement of the member's assets from the member's personal representative. The representative shall sign and return Form 470-4339 indicating whether assets remain and, if so, what the assets are and what higher priority expenses exist. EXCEPTION: The procedures in this subparagraph are not necessary when a probate estate has been opened, because probate procedures provide for an inventory, an accounting, and a final report of the estate.

g. Waiving the collection of the debt.

(1) The department shall waive the collection of the debt created under this subrule from the estate of the member to the extent that collection of the debt would result in either of the following:

1. Reduction in the amount received from the member's estate by a surviving spouse or by a surviving child who is under the age of 21, blind, or permanently and totally disabled at the time of the member's death.

2. Creation of an undue hardship for the person seeking a waiver of estate recovery. Undue hardship exists when total household income is less than 200 percent of the poverty level for a household of the same size, total household resources do not exceed \$10,000, and application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered. For this purpose, "income" and "resources" shall be defined as being under the family medical assistance program.

(2) To apply for a waiver of estate recovery due to undue hardship, the person shall provide a written statement and supporting verification to the department within 30 days of the notice of estate recovery pursuant to Iowa Code section 633.425.

(3) The department shall determine whether undue hardship exists on a case-by-case basis. Appeals of adverse decisions regarding an undue hardship determination may be filed in accordance with 441—Chapter 7.

h. Amount waived. If collection of all or part of a debt is waived pursuant to paragraph 75.28(7) "g," to the extent that the person received the member's estate, the amount waived shall be a debt due from the following:

(1) The estate of the member's surviving spouse, upon the death of the spouse.

(2) The estate of the member's surviving child who is blind or has a disability, upon the death of the child.

(3) A surviving child who was under 21 years of age at the time of the member's death, when the child reaches the age of 21.

(4) The estate of a surviving child who was under 21 years of age at the time of the member's death, if the child dies before reaching the age of 21.

(5) The hardship waiver recipient, when the hardship no longer exists.

(6) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient.

i. Impact of asset disregard on debt due. The estate of a member who is eligible for medical assistance under subrule 75.5(5) shall not be subject to a claim for medical assistance paid on the member's behalf up to the amount of the assets disregarded by asset disregard. Medical assistance paid on behalf of the member before these conditions shall be recovered from the estate, regardless of the member's having purchased precertified or approved insurance.

j. Interest on debt. Interest shall accrue on a debt due under this subrule at the rate provided pursuant to Iowa Code section 535.3, beginning six months after the death of a Medicaid member, the surviving spouse, or the surviving child, or upon the child's reaching the age of 21.

k. Reimbursement to county. If a county reimburses the department for medical assistance provided under this subrule and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in Iowa Code chapter 633C, the department shall reimburse the county on a proportionate basis.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.29(249A) Investigation by quality control or the department of inspections and appeals. An applicant or member shall cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of medical assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

[ARC 1134C, IAB 10/30/13, effective 10/2/13]

441—75.30(249A) Member lock-in. In order to promote high-quality health care and to prevent harmful practices such as duplication of medical services, drug abuse or overuse, and possible drug interactions, members that utilize medical assistance services or items at a frequency or in an amount which is considered to be overuse of services as defined in subrule 75.30(7) may be restricted (locked-in) to receive services from a designated provider(s).

75.30(1) A lock-in or restriction shall be imposed for a minimum of 24 months with longer restrictions determined on an individual basis.

75.30(2) Provider selection. The member may select the provider(s) from which services will be received. The designated providers will be identified on the department's eligibility verification system (ELVS). Only prescriptions written or approved by the designated primary provider(s) will be reimbursed. Other providers of the restricted service will be reimbursed only under circumstances specified in subrule 75.30(3).

75.30(3) Payment will be made to a provider(s) other than the designated (lock-in) provider(s) in the following instances:

a. Emergency care is required and the designated provider is not available. Emergency care is defined as care necessary to sustain life or prevent a condition which could cause physical disability.

b. The designated provider requires consultation with another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 75.30(5).

c. The designated provider refers the member to another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 75.30(5).

75.30(4) When the member fails to choose a provider(s) within 30 days of the request, the division of medical services will select the provider(s) based on previously utilized provider(s) and reasonable access for the member.

75.30(5) Members may change a designated provider(s) when a change is warranted, such as when the member has moved, the provider no longer participates, or the provider refuses to see the patient. The worker for the member shall make the determination when the member has demonstrated that a

change is warranted. Members may add additional providers to the original designation with approval of a health professional employed by the department for this purpose.

75.30(6) When lock-in is imposed on a member, timely and adequate notice shall be sent and an opportunity for a hearing given in accordance with 441—Chapter 7.

75.30(7) Overuse of services is defined as receipt of treatments, drugs, medical supplies or other Medicaid benefits from one or multiple providers of service in an amount, duration, or scope in excess of that which would reasonably be expected to result in a medical or health benefit to the patient.

a. Determination of overuse of service shall be based on utilization data generated by the Surveillance and Utilization Review Subsystem of the Medicaid Management Information System. The system employs an exception-reporting technique to identify the members most likely to be program overutilizers by reporting cases in which the utilization exceeds the statistical average.

b. In addition to referrals from the Surveillance and Utilization Review Subsystem described in paragraph 75.30(7) “*a*,” referrals for utilization review shall be made when utilization data generated by the Medicaid Management Information System reflects that utilization of Medicaid member outpatient visits to physicians, advanced registered nurse practitioners, federally qualified health centers, rural health centers, other clinics, and emergency rooms exceeds 24 visits in any 12-month period. This utilization review shall not apply to Medicaid members who are enrolled in the MediPASS program or a health maintenance organization or who are children under 21 years of age or residents of a nursing facility. For the purposes of this paragraph, the term “physician” does not include a psychiatrist.

c. An investigation process of Medicaid members determined in paragraph 75.30(7) “*a*” or “*b*” to be subject to a review of overutilization shall be conducted to determine if actual overutilization exists by verifying that the information reported by the computer system is valid and is also unusual based on professional medical judgment. Medical judgments shall be made by physicians, pharmacists, nurses and other health professionals either employed by, under contract to, or as consultants for the department. These medical judgments shall be made by the health professionals on the basis of the body of knowledge each has acquired which meets the standards necessary for licensure or certification under the Iowa licensing statutes for the particular health discipline.

[ARC 1266C, IAB 1/8/14, effective 1/1/14; ARC 1355C, IAB 3/5/14, effective 4/9/14]

441—75.31 to 75.49 Reserved.

DIVISION II
ELIGIBILITY FACTORS SPECIFIC TO COVERAGE GROUPS RELATED TO
THE FAMILY MEDICAL ASSISTANCE PROGRAM (FMAP)

441—75.50(249A) Definitions. The following definitions apply to this division in addition to the definitions in rule 441—75.25(249A).

“*Applicant*” shall mean a person who is requesting assistance on the person’s own behalf or on behalf of another person, including recertification under the medically needy program. This also includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

“*Application period*” means the months beginning with the month in which the application is considered to be filed, through and including the month in which an eligibility determination is made.

“*Assistance unit*” includes any person whose income is considered when determining eligibility.

“*Bona fide offer*” means an actual or genuine offer which includes a specific wage or a training opportunity at a specified place when used to determine whether the parent has refused an offer of training or employment.

“*Central office*” shall mean the state administrative office of the department of human services.

“*Change in income*” means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

“*Change in work expenses*” means a permanent change in the cost of dependent care or the beginning or ending of dependent care.

“*Department*” shall mean the Iowa department of human services.

“*Dependent*” means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

“*Dependent child*” or “*dependent children*” means a child or children who meet the nonfinancial eligibility requirements of the applicable FMAP-related coverage group.

“*Income in-kind*” is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

“*Initial two months*” means the first two consecutive months for which eligibility is granted.

“*Medical institution*,” when used in this division, shall mean a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility’s license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals.
2. Extended care facilities (skilled nursing).
3. Intermediate care facilities.
4. Mental health institutions.
5. Hospital schools.

“*Needy specified relative*” means a nonparental specified relative, listed in 75.55(1), who meets all the eligibility requirements of the FMAP coverage group, listed in 75.1(14).

“*Nonrecurring lump sum unearned income*” means a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits such as social security, job insurance or workers’ compensation.

“*Parent*” means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

“*Prospective budgeting*” means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

“*Recipient*” means a person for whom Medicaid is received as well as parents living in the home with the eligible children and other specified relatives as defined in subrule 75.55(1) who are receiving Medicaid for the children. Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

“*Schedule of needs*” means the total needs of a group as determined by the schedule of living costs, described at subrule 75.58(2).

“*Stepparent*” means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child’s parent by ceremonial or common-law marriage.

“*Unborn child*” shall include an unborn child during the entire term of the pregnancy.

“*Uniformed service*” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

441—75.51(249A) Reinstatement of eligibility. Rescinded IAB 2/10/10, effective 3/1/10.

441—75.52(249A) Continuing eligibility.

75.52(1) Reviews. Eligibility factors shall be reviewed at least annually for the FMAP-related programs. Reviews shall be conducted using information contained in and verification supplied with the review form specified in subrule 75.52(3).

75.52(2) Additional reviews. A redetermination of specific eligibility factors shall be made when:

- a. The member reports a change in circumstances (for example, a change in income, as defined at rule 441—75.50(249A)), or
- b. A change in the member’s circumstances comes to the attention of a staff member.

75.52(3) Forms.

a. Information for the annual review shall be submitted on Form 470-2881, 470-2881(M), 470-2881(S), or 470-2881(MS), Review/Recertification Eligibility Document (RRED), with the following exceptions:

(1) When the client has completed Form 470-0462 or 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the review document for the annual review.

(2) Information for recertification of family medical assistance-related medically needy shall be submitted on Form 470-3118 or 470-3118(S), Medicaid Review.

b. The department shall supply the review form to the client as needed, or upon request, and shall pay the cost of postage to return the form.

(1) When the review form is issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date the form is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

c. The review information for foster children or children in subsidized adoption or subsidized guardianship shall be submitted on Form 470-2914, Foster Care, Adoption, and Guardianship Medicaid Review.

75.52(4) Client responsibilities. For the purposes of this subrule, "clients" shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The client shall cooperate by giving complete and accurate information needed to establish eligibility.

b. The client shall complete the required review form when requested by the department in accordance with subrule 75.52(3). If the department does not receive a completed form, assistance shall be canceled. A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1) "f" and 75.57(2) "l."

c. The client shall report any change in the following circumstances at the annual review or upon the addition of an individual to the eligible group:

(1) Income from all sources, including any change in care expenses.

(2) Resources.

(3) Members of the household.

(4) School attendance.

(5) A stepparent recovering from an incapacity.

(6) Change of mailing or living address.

(7) Payment of child support.

(8) Receipt of a social security number.

(9) Payment for child support, alimony, or dependents as defined in paragraph 75.57(8) "b."

(10) Health insurance premiums or coverage.

d. All clients shall timely report any change in the following circumstances at any time:

(1) Members of the household.

(2) Change of mailing or living address.

(3) Sources of income.

(4) Health insurance premiums or coverage.

e. Clients described at subrule 75.1(35) shall also timely report any change in income from any source and any change in care expenses at any time.

f. A report shall be considered timely when made within ten days from the date:

(1) A person enters or leaves the household.

(2) The mailing or living address changes.

(3) A source of income changes.

- (4) A health insurance premium or coverage change is effective.
- (5) Of any change in income.
- (6) Of any change in care expenses.

g. When a change is not reported as required in paragraphs 75.52(4) “c” through “e,” any excess Medicaid paid shall be subject to recovery.

h. When a change in any circumstance is reported, its effect on eligibility shall be evaluated and eligibility shall be redetermined, if appropriate, regardless of whether the report of the change was required in paragraphs 75.52(4) “c” through “e.”

75.52(5) Effective date. After assistance has been approved, eligibility for continuing assistance shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month, subject to timely notice requirements at rule 441—7.6(217) for any adverse actions.

a. When the change creates ineligibility, eligibility under the current coverage group shall be canceled and an automatic redetermination of eligibility shall be completed in accordance with rule 441—76.11(249A).

b. Rescinded IAB 10/4/00, effective 10/1/00.

c. When an individual included in the eligible group becomes ineligible, that individual’s Medicaid shall be canceled effective the first of the next month unless the action must be delayed due to timely notice requirements at rule 441—7.6(217).

[ARC 8260B, IAB 11/4/09, effective 1/1/10; ARC 8500B, IAB 2/10/10, effective 3/1/10]

441—75.53(249A) Iowa residency policies specific to FMAP and FMAP-related coverage groups. Notwithstanding the provisions of rule 441—75.10(249A), the following rules shall apply when determining eligibility for persons under FMAP or FMAP-related coverage groups.

75.53(1) Definition of resident. A resident of Iowa is one:

a. Who is living in Iowa voluntarily with the intention of making that person’s home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

b. Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the specified relative is a resident.

75.53(2) Retention of residence. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

75.53(3) Suitability of home. The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

75.53(4) Absence from the home.

a. An individual who is absent from the home shall not be included in the eligible group, except as described in paragraph “b.”

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year from the date of entry into the medical institution will result in the individual's needs being removed from the eligible group.

(2) A child is out of the home to secure education or training as defined in paragraph 75.54(1) "b" as long as the child remains a dependent.

(3) A parent or specified relative is temporarily out of the home to secure education or training and was in the eligible group before leaving the home to secure education or training. For this purpose, "education or training" means any academic or vocational training program that prepares a person for a specific professional or vocational area of employment.

(4) An individual is out of the home for reasons other than reasons in subparagraphs 75.53(4) "b"(1) through (3) and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual's needs being removed from the eligible group.

[ARC 0579C, IAB 2/6/13, effective 4/1/13]

441—75.54(249A) Eligibility factors specific to child.

75.54(1) Age. Unless otherwise specified at rule 441—75.1(249A), Medicaid shall be available to a needy child under the age of 18 years without regard to school attendance.

a. A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month.

b. Medicaid shall also be available to a needy child aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19 if the following criteria are met.

(1) A child shall be considered attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A child shall also be considered to be in regular attendance in months when the child is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a child's education is temporarily interrupted pending adjustment of an education or training program, exemption shall be continued for a reasonable period of time to complete the adjustment.

75.54(2) Residing with a relative. The child shall be living in the home of one of the relatives specified in subrule 75.55(1). When the mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

75.54(3) Deprivation of parental care and support. Rescinded IAB 11/1/00, effective 1/1/01.

75.54(4) Continuous eligibility for children. Rescinded IAB 11/5/08, effective 11/1/08.

441—75.55(249A) Eligibility factors specific to specified relatives.

75.55(1) Specified relationship.

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father or adoptive father.

Mother or adoptive mother.

Grandfather or grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather or adoptive grandfather.

Grandmother or grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother or adoptive grandmother.

Great-grandfather or great-great-grandfather.

Great-grandmother or great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother, brother-of-half-blood, stepbrother, brother-in-law or adoptive brother.

Sister, sister-of-half-blood, stepsister, sister-in-law or adoptive sister.

Uncle or aunt, of whole or half blood.

Uncle-in-law or aunt-in-law.

Great uncle or great-great-uncle.

Great aunt or great-great-aunt.

First cousins, nephews, or nieces.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

75.55(2) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity as provided in rule 441—75.14(249A).

a. When necessary to establish eligibility, the department shall make the initial contact with the absent parent at the time of application. Subsequent contacts may be made by the child support recovery unit.

b. When contact with the family or other sources of information indicates that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the department shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

[ARC 8785B, IAB 6/2/10, effective 8/1/10]

441—75.56(249A) Resources.

75.56(1) *Limitation.* Unless otherwise specified, a client may have the following resources and be eligible for the family medical assistance program (FMAP) or FMAP-related programs. Any resource not specifically exempted shall be counted toward the applicable resource limit when determining eligibility for adults. All resources shall be disregarded when determining eligibility for children.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the client. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at paragraph 75.56(1) "n" or "o," the net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

d. One motor vehicle per household. If the household includes more than one adult or working teenaged child whose resources must be considered as described in subrule 75.56(2), an equity not to exceed a value of \$3,000 in one additional motor vehicle shall be disregarded for each additional adult or working teenaged child.

(1) The disregard for an additional motor vehicle shall be allowed when a working teenager is temporarily absent from work.

(2) The equity value of any additional motor vehicle in excess of \$3,000 shall be counted toward the resource limit in paragraph 75.56(1)“e.” When a motor vehicle is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle.

(3) Beginning July 1, 1994, and continuing in succeeding state fiscal years, the motor vehicle equity value to be disregarded shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

e. A reserve of other property, real or personal, not to exceed \$2,000 for applicant assistance units and \$5,000 for member assistance units. **EXCEPTION:** Applicant assistance units that contain at least one person who was a Medicaid member in Iowa in the month before the month of application are subject to the \$5,000 limit. Resources of the assistance unit shall be determined in accordance with persons considered, as described at subrule 75.56(2).

f. Money which is counted as income for the month and that part of lump-sum income defined at paragraph 75.57(9)“c” reserved for the current or future month’s income.

g. Payments which are exempted for consideration as income and resources under subrule 75.57(6).

h. An equity not to exceed \$1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of \$1,500 shall be counted toward resource limits unless it is established that the funeral contract or burial trust is irrevocable.

i. One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

j. Settlements for payment of medical expenses.

k. Life estates.

l. Federal or state earned income tax credit payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal or state income tax refund.

m. The balance in an individual development account (IDA), including interest earned on the IDA.

n. An equity not to exceed \$10,000 for tools of the trade or capital assets of self-employed households.

When the value of any resource is exempted in part, that portion of the value which exceeds the exemption shall be considered in calculating whether the eligible group’s property is within the reserve defined in paragraph “e.”

o. Nonhomestead property that produces income consistent with the property’s fair market value.

75.56(2) Persons considered.

a. Resources of persons in the eligible group shall be considered in establishing property limits.

b. Resources of the parent who is living in the home with the eligible children but who is not eligible for Medicaid shall be considered in the same manner as if the parent were eligible for Medicaid.

c. Resources of the stepparent living in the home shall not be considered when determining eligibility of the eligible group, with one exception: The resources of a stepparent included in the eligible group shall be considered in the same manner as a parent.

d. The resources of supplemental security income (SSI) members shall not be counted in establishing property limitations. When property is owned by both the SSI beneficiary and a Medicaid member in another eligible group, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

e. The resources of a nonparental specified relative who elects to be included in the eligible group shall be considered in the same manner as a parent.

75.56(3) Homestead defined. The homestead consists of the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. When within a city plat, it shall not exceed ½ acre in area. When outside a city plat it shall not contain, in the aggregate,

more than 40 acres. When property used as a home exceeds these limitations, the equity value of the excess property shall be determined in accordance with subrule 75.56(5).

75.56(4) Liquidation. When proceeds from the sale of resources or conversion of a resource to cash, together with other nonexempted resources, exceed the property limitations, the member is ineligible to receive assistance until the amount in excess of the resource limitation has been expended unless immediately used to purchase a homestead, or reduce the mortgage on a homestead.

a. Property settlements. Property settlements which are part of a legal action in a dissolution of marriage or palimony suit are considered as resources upon receipt.

b. Property sold under installment contract. Property sold under an installment contract or held as security in exchange for a price consistent with its fair market value is exempt as a resource. If the price is not consistent with the contract's fair market value, the resource value of the installment contract is the gross price for which it can be sold or discounted on the open market, less any legal debts, claims, or liens against the installment contract.

Payments from property sold under an installment contract are exempt as income as specified in paragraphs 75.57(1) "d" and 75.57(7) "ag." The portion of any payment received representing principal is considered a resource upon receipt. The interest portion of the payment is considered a resource the month following the month of receipt.

75.56(5) Net market value defined. Net market value is the gross price for which property or an item can currently be sold on the open market, less any legal debts, claims, or liens against the property or item.

75.56(6) Availability.

a. A resource must be available in order for it to be counted toward resource limitations. A resource is considered available under the following circumstances:

(1) The applicant or member owns the property in part or in full and has control over it. That is, it can be occupied, rented, leased, sold, or otherwise used or disposed of at the individual's discretion.

(2) The applicant or member has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

b. Rescinded IAB 6/30/99, effective 9/1/99.

c. When property is owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the property.

d. When the applicant or member owns nonhomestead property, the property shall be considered exempt for so long as the property is publicly advertised for sale at an asking price that is consistent with its fair market value.

75.56(7) Damage judgments and insurance settlements.

a. Payment resulting from damage to or destruction of an exempt resource shall be considered a resource to the applicant or member the month following the month the payment was received. When the applicant or member signs a legal binding commitment no later than the month after the month the payment was received, the funds shall be considered exempt for the duration of the commitment providing the terms of the commitment are met within eight months from the date of commitment.

b. Payment resulting from damage to or destruction of a nonexempt resource shall be considered a resource in the month following the month in which payment was received.

75.56(8) Conservatorships.

a. Conservatorships established prior to February 9, 1994. The department shall determine whether assets from a conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the order establishing the conservatorship.

(1) Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

(2) When the department worker questions whether the funds in a conservatorship are available, the worker shall refer the conservatorship to the central office. When assets in the conservatorship are not clearly available, central office staff may contact the conservator and request that the funds in the conservatorship be made available for current support and maintenance. When the conservator chooses

not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(3) Funds in a conservatorship that are not clearly available shall be considered unavailable until the conservator or court actually makes the funds available.

(4) Payments received from the conservatorship for basic or special needs are considered income.

b. Conservatorships established on or after February 9, 1994. Conservatorships established on or after February 9, 1994, shall be treated according to the provisions of paragraphs 75.24(1) “*e*” and 75.24(2) “*b*.”

75.56(9) *Not considered a resource.* Inventories and supplies, exclusive of capital assets, that are required for self-employment shall not be considered a resource. Inventory is defined as all unsold items, whether raised or purchased, that are held for sale or use and shall include, but not be limited to, merchandise, grain held in storage and livestock raised for sale. Supplies are items necessary for the operation of the enterprise, such as lumber, paint, and seed. Capital assets are those assets which, if sold at a later date, could be used to claim capital gains or losses for federal income tax purposes. When self-employment is temporarily interrupted due to circumstances beyond the control of the household, such as illness, inventory or supplies retained by the household shall not be considered a resource.

441—75.57(249A) Income. When determining initial and ongoing eligibility for the family medical assistance program (FMAP) and FMAP-related Medicaid coverage groups, all unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered.

1. Unless otherwise specified at rule 441—75.1(249A), the determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income received by the eligible group and available to meet the current month’s needs is no more than 185 percent of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); (2) the countable net earned and unearned income is less than the schedule of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 2); and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the schedule of basic needs as identified at subrule 75.58(2) for the eligible group (Test 3).

2. The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); and (2) countable net unearned and earned income is less than the schedule of basic needs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 3).

3. Child support assigned to the department in accordance with 441—subrule 41.22(7) shall be considered unearned income for the purpose of determining continuing eligibility, except as specified at paragraphs 75.57(1) “*e*,” 75.57(6) “*u*,” and 75.57(7) “*o*.” Expenses for care of children or disabled adults, deductions, and diversions shall be allowed when verification is provided.

75.57(1) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. Social security income is the amount of the entitlement before withholding of a Medicare premium.

b. Financial assistance received for education or training. Rescinded IAB 2/11/98, effective 2/1/98.

c. Rescinded IAB 2/11/98, effective 2/1/98.

d. When the client sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt

as defined in subrule 75.56(4). The interest portion of the payment is considered a resource the month following the month of receipt.

e. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility.

(1) Any nonexempt cash support payment, for a member of the eligible group, made while the application is pending shall be treated as unearned income.

(2) Support payments shall be considered as unearned income in the month in which the IV-A agency (income maintenance) is notified of the payment by the IV-D agency (child support recovery unit).

The amount of income to consider shall be the actual amount paid or the monthly entitlement, whichever is less.

(3) Support payments reported by child support recovery during a past month for which eligibility is being determined shall be used to determine eligibility for the month. Support payments anticipated to be received in future months shall be used to determine eligibility for future months. When support payments terminate in the month of decision of an FMAP-related Medicaid application, both support payments already received and support payments anticipated to be received in the month of decision shall be used to determine eligibility for that month.

(4) When the reported support payment, combined with other income, creates ineligibility under the current coverage group, an automatic redetermination of eligibility shall be conducted in accordance with the provisions of rule 441—76.11(249A). Persons receiving Medicaid under the family medical assistance program in accordance with subrule 75.1(14) may be entitled to continued coverage under the provisions of subrule 75.1(21). Eligibility may be reestablished for any month in which the countable support payment combined with other income meets the eligibility test.

f. The client shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—75.50(249A).

(1) When the information is available, the department shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the department uses this information as verification, job insurance benefits shall be considered received the second day after the date that the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.

(2) When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy before the eligibility month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), applicable to the eligibility month, whichever is later.

75.57(2) Earned income. Earned income is defined as income in the form of a salary, wages, tips, bonuses, commission earned as an employee, income from Job Corps, or profit from self-employment. Earned income from commissions, wages, tips, bonuses, Job Corps, or salary means the total gross amount irrespective of the expenses of employment. With respect to self-employment, earned income means the net profit from self-employment, defined as gross income less the allowable costs of producing the income. Income shall be considered earned income when it is produced as a result of the performance of services by an individual.

a. Each person in the assistance unit whose gross nonexempt earned income, earned as an employee or net profit from self-employment, considered in determining eligibility is entitled to one 20 percent earned income deduction of nonexempt monthly gross earnings. The deduction is intended to include work-related expenses other than child care. These expenses shall include, but are not limited to, all of the following: taxes, transportation, meals, uniforms, and other work-related expenses.

b. Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations.

(1) Persons in the eligible group and excluded parents shall be allowed care expenses for a child or incapacitated adult in the eligible group.

(2) Stepparents as described at paragraph 75.57(8)“b” and self-supporting parents on underage parent cases as described at paragraph 75.57(8)“c” shall be allowed incapacitated adult care or child care expenses for the ineligible dependents of the stepparent or self-supporting parent.

(3) Unless both parents are in the home and one parent is physically and mentally able to provide the care, child care or care for an incapacitated adult shall be considered a work expense in the amount paid for care of each child or incapacitated adult, not to exceed \$175 per month, or \$200 per month for a child under the age of two, or the going rate in the community, whichever is less.

(4) If both parents are in the home, adult or child care expenses shall not be allowed when one parent is unemployed and is physically and mentally able to provide the care.

(5) The deduction is allowable only when the care covers the actual hours of the individual’s employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(6) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(7) If the amount claimed is questionable, the expense shall be verified by a receipt or a statement from the provider of care. The expense shall be allowed when paid to any person except a parent or legal guardian of the child, another member of the eligible group, or any person whose needs are met by diversion of income from any person in the eligible group.

c. Work incentive disregard. After deducting the allowable work-related expenses as defined at paragraphs 75.57(2)“a” and “b” and income diversions as defined at subrule 75.57(4), 58 percent of the total of the remaining monthly nonexempt earned income, earned as an employee or the net profit from self-employment, of each person whose income must be considered is disregarded in determining eligibility for the family medical assistance program (FMAP) and those FMAP-related coverage groups subject to the three-step process for determining initial eligibility as described at rule 441—75.57(249A).

(1) The work incentive disregard is not time-limited.

(2) Initial eligibility under the first two steps of the three-step process is determined without the application of the work incentive disregard as described at subparagraphs 75.57(9)“a”(2) and (3).

(3) A person who is not eligible for Medicaid because the person has refused to cooperate in applying for or accepting benefits from other sources, in accordance with the provisions of rule 441—75.2(249A), 441—75.3(249A), or 441—75.21(249A), is eligible for the work incentive disregard.

d. Rescinded IAB 6/30/99, effective 9/1/99.

e. A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person’s own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

f. The net profit from self-employment income in a non-home-based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent, the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

g. When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:

(1) Shelter expense in excess of that set forth on the chart of basic needs components at subrule 75.58(2) for the eligible group.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components at subrule 75.58(2).

(3) Ten percent of gross rentals to cover the cost of upkeep.

h. In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:

(1) \$41 plus an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food assistance program benefit for a one-member household for a boarder.

(2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

i. Gross income from providing child care in the applicant's or member's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

(1) In determining profit from providing child care services in the applicant's or member's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the applicant or member requests to have actual expenses in excess of the 40 percent considered.

(2) When the applicant or member requests to have expenses in excess of the 40 percent considered, profit shall be determined in the same manner as specified at paragraph 75.57(2) "j."

j. In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services, the following expenses shall be deducted from the income received:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees.

(3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.

(4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.

(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

k. Rescinded IAB 6/30/99, effective 9/1/99.

l. The applicant or member shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—75.50(249A). A self-employed applicant or member shall keep any records necessary to establish eligibility.

75.57(3) Shared living arrangements. When an applicant or member shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the applicant or member, exclusively for the applicant's or member's needs, are considered income.

75.57(4) Diversion of income.

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent living in the family group who meet the age and school attendance requirements specified in subrule 75.54(1). Income of the parent shall be diverted to meet the unmet

needs of the ineligible children of the parent and a companion in the home only when the income and resources of the companion and the children are within family medical assistance program standards. The maximum income that shall be diverted to meet the needs of the ineligible children shall be the difference between the needs of the eligible group if the ineligible children were included and the needs of the eligible group with the ineligible children excluded, except as specified at paragraph 75.57(8) "b."

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

75.57(5) *Income of unmarried specified relatives under the age of 19.*

a. Income of the unmarried specified relative under the age of 19 when that specified relative lives with a parent who receives coverage under family medical assistance-related programs or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Income of the unmarried specified relative under the age of 19 who lives in the same home as a self-supporting parent. The income of the unmarried specified relative under the age of 19 living in the same home as a self-supporting parent shall be treated in accordance with subparagraphs (1), (2), and (3) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parents shall be treated in accordance with paragraph 75.57(8) "c."

(3) When the unmarried specified relative is 18 years of age, the specified relative's income shall be treated in the same manner as though the specified relative had attained majority.

75.57(6) *Exempt as income and resources.* The following shall be exempt as income and resources:

a. Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

b. The value of the food assistance program benefit.

c. The value of the United States Department of Agriculture donated foods (surplus commodities).

d. The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

e. Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

f. Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

g. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

h. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

i. Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

- j.* Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.
- k.* Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.
- l.* Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.
- m.* The income of a supplemental security income recipient.
- n.* Income of an ineligible child.
- o.* Income in-kind.
- p.* Family support subsidy program payments.
- q.* Grants obtained and used under conditions that preclude their use for current living costs.
- r.* All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 75.55(1), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.
- s.* Subsidized guardianship program payments.
- t.* Any income restricted by law or regulation which is paid to a representative payee living outside the home, unless the income is actually made available to the applicant or member by the representative payee.
- u.* The first \$50 received by the eligible group which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed \$50 per month per eligible group.
- v.* Bona fide loans. Evidence of a bona fide loan may include any of the following:
- (1) The loan is obtained from an institution or person engaged in the business of making loans.
 - (2) There is a written agreement to repay the money within a specified time.
 - (3) If the loan is obtained from a person not normally engaged in the business of making a loan, there is borrower's acknowledgment of obligation to repay (with or without interest), or the borrower expresses intent to repay the loan when funds become available in the future, or there is a timetable and plan for repayment.
- w.* Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
- x.* The income of a person ineligible due to receipt of state-funded foster care, IV-E foster care, or subsidized adoption assistance.
- y.* Payments for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.
- z.* Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383, entitled "Wartime Relocation of Civilians."
- aa.* Payments received from the Radiation Exposure Compensation Act.
- ab.* Deposits into an individual development account (IDA) when determining eligibility. The amount of the deposit is exempt as income and shall not be used in the 185 percent eligibility test. Deposits shall be deducted from nonexempt earned and unearned income beginning with the month following the month in which verification that deposits have begun is received. The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions at paragraphs 75.57(2) "a," "b," and "c" shall be applied to nonexempt earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. Allowable deductions shall be applied to any nonexempt unearned income that remains after deducting the amount of the deposit. If the client has both nonexempt earned and unearned income, the amount deposited into the IDA account shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

75.57(7) Exempt as income. The following are exempt as income.

- a. Reimbursements from a third party.
- b. Reimbursement from the employer for a job-related expense.
- c. The following nonrecurring lump sum payments:
 - (1) Income tax refund.
 - (2) Retroactive supplemental security income benefits.
 - (3) Settlements for the payment of medical expenses.
 - (4) Refunds of security deposits on rental property or utilities.
 - (5) That part of a lump sum received and expended for funeral and burial expenses.
 - (6) That part of a lump sum both received and expended for the repair or replacement of resources.
- d. Payments received by the family for providing foster care when the family is operating a licensed foster home.
- e. A small monetary nonrecurring gift, such as a Christmas, birthday or graduation gift, not to exceed \$30 per person per calendar quarter.

When a monetary gift from any one source is in excess of \$30, the total gift is countable as unearned income. When monetary gifts from several sources are each \$30 or less, and the total of all gifts exceeds \$30, only the amount in excess of \$30 is countable as unearned income.
- f. Federal or state earned income tax credit.
- g. Supplementation from county funds, providing:
 - (1) The assistance does not duplicate any of the basic needs as recognized by the chart of basic needs components in accordance with subrule 75.58(2), or
 - (2) The assistance, if a duplication of any of the basic needs, is made on an emergency basis, not as ongoing supplementation.
- h. Any payment received as a result of an urban renewal or low-cost housing project from any governmental agency.
- i. A retroactive corrective family investment program (FIP) payment.
- j. The training allowance issued by the division of vocational rehabilitation, department of education.
- k. Payments from the PROMISE JOBS program.
- l. The training allowance issued by the department for the blind.
- m. Payments from passengers in a car pool.
- n. Support refunded by the child support recovery unit for the first month of termination of eligibility and the family does not receive the family investment program.
- o. Rescinded IAB 10/4/00, effective 10/1/00.
- p. Rescinded IAB 10/4/00, effective 10/1/00.
- q. Income of a nonparental relative as defined at subrule 75.55(1) except when the relative is included in the eligible group.
- r. Rescinded IAB 10/4/00, effective 10/1/00.
- s. Compensation in lieu of wages received by a child funded through an employment and training program of the U.S. Department of Labor.
- t. Any amount for training expenses included in a payment funded through an employment and training program of the U.S. Department of Labor.
- u. Earnings of a person aged 19 or younger who is a full-time student as defined at subparagraphs 75.54(1)“b”(1) and (2). The exemption applies through the entire month of the person’s twentieth birthday.

EXCEPTION: When the twentieth birthday falls on the first day of the month, the exemption stops on the first day of that month.
- v. Income attributed to an unmarried, underage parent in accordance with paragraph 75.57(8) “c” effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or reaches majority through marriage. When the unmarried, underage parent turns 18 on the first day of a month, the income of the self-supporting parents becomes exempt as of the first day of that month.

w. Incentive payments received from participation in the adolescent pregnancy prevention programs.

x. Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.

y. Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.

z. Interest and dividend income.

aa. Rescinded IAB 10/4/00, effective 10/1/00.

ab. Honorarium income. All moneys paid to an eligible household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

ac. Income that an individual contributes to a trust as specified at paragraph 75.24(3)“b” shall not be considered for purposes of determining eligibility for the family medical assistance program (FMAP) or FMAP-related Medicaid coverage groups.

ad. Benefits paid to the eligible household under the family investment program (FIP).

ae. Moneys received through the pilot self-sufficiency grants program or through the pilot diversion program.

af. Earnings from new employment of any person whose income is considered when determining eligibility during the first four calendar months of the new employment. The date the new employment or self-employment begins shall be verified before approval of the exemption. This four-month period shall be referred to as the work transition period (WTP).

(1) The exempt period starts the first day of the month in which the client receives the first pay from the new employment and continues through the next three benefit months, regardless if the job ends during the four-month period.

(2) To qualify for this disregard, the person shall not have earned more than \$1,200 in the 12 calendar months prior to the month in which the new job begins, the income must be reported timely in accordance with rule 441—76.10(249A), and the new job must have started after the date the application is filed. For purposes of this policy, the \$1,200 earnings limit applies to the gross amount of income without any allowance for exemptions, disregards, work deductions, diversions, or the costs of doing business used in determining net profit from any income test in rule 441—75.57(249A).

(3) If another new job or self-employment enterprise starts while a WTP is in progress, the exemption shall also be applied to earnings from the new source that are received during the original 4-month period, provided that the earnings were less than \$1,200 in the 12-month period before the month the other new job or self-employment enterprise begins.

(4) An individual is allowed the 4-month exemption period only once in a 12-month period. An additional 4-month exemption shall not be granted until the month after the previous 12-month period has expired.

(5) If a person whose income is considered enters the household, the new job must start after the date the person enters the home or after the person is reported in the home, whichever is later, in order for that person to qualify for the exemption.

(6) When a person living in the home whose income is not considered subsequently becomes an assistance unit member whose income is considered, the new job must start after the date of the change that causes the person’s income to be considered in order for that person to qualify for the exemption.

(7) A person who begins new employment or self-employment that is intermittent in nature may qualify for the WTP. “Intermittent” includes, but is not limited to, working for a temporary agency that places the person in different job assignments on an as-needed or on-call basis, or self-employment from providing child care for one or more families. However, a person is not considered as starting new employment or self-employment each time intermittent employment restarts or changes such as when the same temporary agency places the person in a new assignment or a child care provider acquires another child care client.

ag. Payments from property sold under an installment contract as specified in paragraphs 75.56(4)“b” and 75.57(1)“d.”

ah. All census earnings received by temporary workers from the Bureau of the Census.

ai. Payments received through participation in the preparation for adult living program pursuant to 441—Chapter 187.

75.57(8) *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

a. Treatment of income in excluded parent cases. A parent who is living in the home with the eligible children but who is not eligible for Medicaid is eligible for the 20 percent earned income deduction, child care expenses for children in the eligible group, the 58 percent work incentive disregard described at paragraphs 75.57(2) “a,” “b,” and “c,” and diversions described at subrule 75.57(4). All remaining nonexempt income of the parent shall be applied against the needs of the eligible group.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group but who is living with the parent in the home of an eligible child shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) through (10) below.

(1) The stepparent’s monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) The stepparent’s monthly nonexempt earned income remaining after the 20 percent earned income deduction shall be allowed child care expenses for the stepparent’s ineligible dependents in the home, subject to the restrictions described at subparagraphs 75.57(2) “b”(1) through (5).

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at subrule 75.57(10), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions at subparagraphs 75.57(8) “b”(1) through (4) above shall be used to meet the needs of the stepparent and the stepparent’s dependents living in the home, when the dependents’ needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the schedule of needs for a family group of the same composition in accordance with subrule 75.58(2).

(6) The stepparent shall be allowed the 58 percent work incentive disregard from monthly earnings. The disregard shall be applied to earnings that remain after all other deductions at subparagraphs 75.57(8) “b”(1) through (5) have been subtracted from the earnings. However, the work incentive disregard is not allowed when determining initial eligibility as described at subparagraphs 75.57(9) “a”(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) shall first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt, nonrecurring lump sum received by a stepparent shall be considered as income and counted in computing eligibility in the same manner as it would be treated for a parent. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent if that portion is not exempted according to paragraph 75.56(1) “f.”

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent’s dependents living in the home who are not eligible for FMAP-related

Medicaid, the income of the parent may be diverted to meet the unmet needs of the children of the current marriage except as described at subrule 75.57(10).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any children of the parent living in the home who are not eligible for FMAP-related Medicaid shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parents, the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions unless the provisions of rule 441—75.59(249A) apply. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to subparagraphs 75.57(8)“b”(1) through (7). Child care expenses at subparagraph 75.57(8)“b”(2) shall be allowed for the self-supporting parent's ineligible children. Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with subparagraph 75.57(8)“b”(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to subparagraphs 75.57(8)“b”(1) through (7) unless the provisions of rule 441—75.59(249A) apply. Child care expenses at subparagraph 75.57(8)“b”(2) shall be allowed for the ineligible dependents of the self-supporting spouse who is a stepparent of the minor parent. Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with subparagraph 75.57(8)“b”(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit. The self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

75.57(9) Budgeting process.

a. Initial and ongoing eligibility. Both initial and ongoing eligibility shall be based on a projection of income based on the best estimate of future income.

(1) Upon application, the department shall use all earned and unearned income received by the eligible group to project future income. Allowable work expenses shall be deducted from earned income, except in determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of initial eligibility is a three-step process as described at rule 441—75.57(249A).

(2) Test 1. When countable gross nonexempt earned and unearned income exceeds 185 percent of the schedule of living costs (Test 1), as identified at subrule 75.58(2) for the eligible group, eligibility does not exist under any coverage group for which these income tests apply. Countable gross income means nonexempt gross income, as defined at rule 441—75.57(249A), without application of any disregards, deductions, or diversions.

(3) Test 2. When the countable gross nonexempt earned and unearned income equals or is less than 185 percent of the schedule of living costs for the eligible group, initial eligibility under the schedule of living costs (Test 2) shall then be determined. Initial eligibility under the schedule of living costs is determined without application of the 58 percent work incentive disregard as specified at paragraph 75.57(2)“c.” All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the schedule of living costs (Test 2) for the eligible group. When countable net earned and unearned income equals or exceeds the schedule of living costs for the eligible group, eligibility does not exist under any coverage group for which these income tests apply.

(4) Test 3. After application of Tests 1 and 2 for initial eligibility or of Test 1 for ongoing eligibility, the 58 percent work incentive disregard at paragraph 75.57(2)“c” shall be applied when there is eligibility for this disregard. When countable net earned and unearned income, after application of the work incentive disregard and all other appropriate exemptions, deductions, and diversions, equals or exceeds the schedule of basic needs (Test 3) for the eligible group, eligibility does not exist under any coverage group for which these tests apply. When the countable net income is less than the schedule of basic needs for the eligible group, the eligible group meets FMAP or CMAP income requirements.

(5) Rescinded IAB 10/4/00, effective 10/1/00.

(6) When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the time period being used and dividing the result by the number of instances of income received in that time period. The result shall be multiplied by four if the income is received weekly, or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

(7) Rescinded IAB 7/4/07, effective 8/1/07.

(8) When a change in circumstances that is required to be timely reported by the client pursuant to paragraphs 75.52(4) “d” and “e” is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change occurred. When a change in circumstances that is required to be reported by the client at annual review or upon the addition of an individual to the eligible group pursuant to paragraph 75.52(4) “c” is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change was required to be reported. All other changes shall be acted upon when they are reported or otherwise become known to the department, allowing for a ten-day notice of adverse action, if required.

b. Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months.

(1) Income received by an individual employed under a contract shall be prorated over the period of the contract.

(2) Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the eligibility determination for the same number of months. EXCEPTION: Periodic or intermittent income from self-employment shall be treated as described at paragraph 75.57(9) “i.”

(3) When the lump-sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a recurring lump sum is received at any time.

c. Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8) “b” and “c,” shall be treated in accordance with this rule. Nonrecurring lump-sum income includes an inheritance, an insurance settlement or tort recovery, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance, or workers’ compensation.

(1) Nonrecurring lump-sum income shall be considered as income in the month of receipt and counted in computing eligibility, unless the income is exempt.

(2) When countable income exclusive of any family investment program grant but including countable lump-sum income exceeds the needs of the eligible group under their current coverage group, the countable lump-sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the total of the lump-sum income and any other countable income received in or projected to be received in the month the lump sum was received by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period is referred to as the period of proration. Any income remaining after this calculation shall be applied as income to the first month following the period of proration and disregarded as income thereafter.

(3) The period of proration shall begin with the month when the nonrecurring lump sum was received, whether or not the receipt of the lump sum was timely reported. If receipt of the lump sum was reported timely and the calculation was completed timely, no recoupment shall be made. If receipt of the lump sum was not reported timely or the calculation was not completed timely, recoupment shall begin with the month of receipt of the nonrecurring lump sum.

(4) The period of proration shall be shortened when:

1. The schedule of living costs as defined at subrule 75.58(2) increases; or

2. A portion of the lump sum is no longer available to the eligible group due to loss or theft or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group; or

3. There is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified.

(5) When countable income, including the lump-sum income, is less than the needs of the eligible group in accordance with the provisions of their current coverage group, the lump sum shall be counted as income for the month of receipt.

(6) For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of proration.

(7) During the period of proration, individuals not in the eligible group when the lump-sum income was received may be eligible as a separate eligible group. Income of this eligible group plus income of the parent or other legally responsible person in the home, excluding the lump-sum income already considered, shall be considered as available in determining eligibility.

d. The third digit to the right of the decimal point in any calculation of income, hours of employment and work expenses for care, as defined at paragraph 75.57(2)“b,” shall be dropped.

e. In any month for which an individual is determined eligible to be added to a currently active family medical assistance (FMAP) or FMAP-related Medicaid case, the individual’s needs, income, and resources shall be included. An individual who is a member of the eligible group and who is determined to be ineligible for Medicaid shall be canceled prospectively effective the first of the following month if the timely notice of adverse action requirements as provided at 441—subrule 76.4(1) can be met.

f. Rescinded IAB 10/4/00, effective 10/1/00.

g. Rescinded IAB 2/11/98, effective 2/1/98.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net income.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual’s annual income shall be averaged over a 12-month period of time, even if the income is received within a short period of time during that 12-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3) through (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3) through (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the department shall recalculate the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

75.57(10) Restriction on diversion of income. Rescinded IAB 7/11/01, effective 9/1/01.

75.57(11) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

[ARC 8500B, IAB 2/10/10, effective 3/1/10; ARC 8556B, IAB 3/10/10, effective 2/10/10; ARC 9043B, IAB 9/8/10, effective 11/1/10]

441—75.58(249A) Need standards.

75.58(1) *Definition of eligible group.* The eligible group consists of all eligible persons specified below and living together, except when one or more of these persons have elected to receive supplemental security income under Title XVI of the Social Security Act or are voluntarily excluded in accordance with the provisions of rule 441—75.59(249A). There shall be at least one child, which may be an unborn child, in the eligible group except when the only eligible child is receiving supplemental security income.

a. The following persons shall be included (except as otherwise provided in these rules) without regard to the person's employment status, income or resources:

- (1) All dependent children who are siblings of whole or half blood or adoptive.
- (2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

- (1) The needy specified relative who assumes the role of parent.
- (2) The needy specified relative who acts as caretaker when the parent is in the home but is unable to act as caretaker.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity.

3. When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.

4. A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of incapacity for the family medical assistance program (FMAP) and FMAP-related program purposes.

5. A stepparent who is considered incapacitated and is receiving Medicaid shall be referred to the department of education, division of vocational rehabilitation services, for evaluation and services. Acceptance of these services is optional.

(4) The stepparent who is not incapacitated when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the stepparent is required in the home to care for the dependent children. These services must be required to the extent that if the stepparent were not available, it would be necessary to allow for care as a deduction from earned income of the parent.

75.58(2) *Schedule of needs.* The schedule of living costs represents 100 percent of the basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the schedule of needs defined at rule 441—75.50(249A). The 185 percent schedule is included for the determination of eligibility in accordance with rule 441—75.57(249A). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in the eligible group. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the eligible group. The percentage of basic needs paid to one or more persons as compared to the schedule of living costs is shown on the chart below:

SCHEDULE OF NEEDS

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each Additional Person
Test 1 185% of Living Costs	675.25	1330.15	1570.65	1824.10	2020.20	2249.60	2469.75	2695.45	2915.60	3189.40	320.05
Test 2 Schedule of Living Costs	365	719	849	986	1092	1216	1335	1457	1576	1724	173
Test 3 Schedule of Basic Needs	183	361	426	495	548	610	670	731	791	865	87
Ratio of Basic Needs to Living Costs	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18

CHART OF BASIC NEEDS COMPONENTS

(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	77.14	65.81	47.10	35.20	31.74	26.28	25.69	22.52	20.91	20.58
Utilities	19.29	16.45	11.77	8.80	7.93	6.57	6.42	5.63	5.23	5.14
Household Supplies	4.27	5.33	4.01	3.75	3.36	3.26	3.10	3.08	2.97	2.92
Food	34.49	44.98	40.31	39.11	36.65	37.04	34.00	33.53	32.87	32.36
Clothing	11.17	11.49	8.70	8.75	6.82	6.84	6.54	6.39	6.20	6.10
Pers. Care & Supplies	3.29	3.64	2.68	2.38	2.02	1.91	1.82	1.72	1.67	1.64
Med. Chest Supplies	.99	1.40	1.34	1.13	1.15	1.11	1.08	1.06	1.09	1.08
Communications	7.23	6.17	3.85	3.25	2.50	2.07	1.82	1.66	1.51	1.49
Transportation	25.13	25.23	22.24	21.38	17.43	16.59	15.24	15.79	15.44	15.19

- a. The definitions of the basic need components are as follows:
- (1) Shelter: Rental, taxes, upkeep, insurance, amortization.
 - (2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.
 - (3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.
 - (4) Food: Including school lunches.
 - (5) Clothing: Including layette, laundry, dry cleaning.
 - (6) Personal care and supplies: Including regular school supplies.
 - (7) Medicine chest items.
 - (8) Communications: Telephone, newspapers, magazines.
 - (9) Transportation: Including bus fares.
- b. Special situations in determining eligible group:
- (1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving Medicaid for the relative's own children.

(2) When the unmarried specified relative under the age of 19 is living in the same home with a parent or parents who receive Medicaid, the needs of the specified relative, when eligible, shall be included in the same eligible group with the parents. When the specified relative is a parent, the needs of the eligible children for whom the unmarried parent is caretaker shall be included in the same eligible group. When the specified relative is a nonparental relative, the needs of the eligible children for whom the specified relative is caretaker shall be considered a separate eligible group.

When the unmarried specified relative under the age of 19 is living in the same home as a parent who receives Medicaid but the specified relative is not an eligible child, need of the specified relative shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative is under the age of 18 and living in the same home with a parent who does not receive Medicaid, the needs of the specified relative, when eligible, shall be included in the eligible group with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined at subrule 75.55(1), only the needs of the eligible children shall be included in the eligible group. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, the person, income and resources shall not be considered in determining eligibility for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of Medicaid, the eligibility shall be computed on the basis of their comprising one eligible group.

(5) When a child is ineligible for Medicaid, the income and resources of that child are not used in determining eligibility of the eligible group and the ineligible child is not a part of the household size. However, the income and resources of a parent who is ineligible for Medicaid are used in determining eligibility of the eligible group and the ineligible parent is counted when determining household size.

441—75.59(249A) Persons who may be voluntarily excluded from the eligible group when determining eligibility for the family medical assistance program (FMAP) and FMAP-related coverage groups.

75.59(1) Exclusions from the eligible group. In determining eligibility under the family medical assistance program (FMAP) or any FMAP-related Medicaid coverage group in this chapter, the following persons may be excluded from the eligible group when determining Medicaid eligibility of other household members.

- a. Siblings (of whole or half blood, or adoptive) of eligible children.
- b. Self-supporting parents of minor unmarried parents.
- c. Stepparents of eligible children.
- d. Children living with a specified relative, as listed at subrule 75.55(1).

75.59(2) Needs, income, and resource exclusions. The needs, income, and resources of persons who are voluntarily excluded shall also be excluded. If a self-supporting parent of a minor unmarried parent is voluntarily excluded, then the minor unmarried parent shall not be counted in the household size when determining eligibility for the minor unmarried parent's child. However, the income and resources of the minor unmarried parent shall be used in determining eligibility for the unmarried minor parent's child. If a stepparent is voluntarily excluded, the natural or adoptive parent shall not be counted in the household size when determining eligibility for the natural or adoptive parent's children. However, the income and resources of the natural or adoptive parent shall be used in determining eligibility for the natural or adoptive parent's children.

75.59(3) Medicaid entitlement. Persons whose needs are voluntarily excluded from the eligibility determination shall not be entitled to Medicaid under this or any other coverage group.

75.59(4) Situations where parent's needs are excluded. In situations where the parent's needs are excluded but the parent's income and resources are considered in the eligibility determination (e.g., minor unmarried parent living with self-supporting parents), the excluded parent shall be allowed the earned income deduction, child care expenses and the work incentive disregard as provided at paragraphs 75.57(2) "a," "b," and "c."

75.59(5) Situations where child's needs, income, and resources are excluded. In situations where the child's needs, income, and resources are excluded from the eligibility determination pursuant to subrule 75.59(1), and the child's income is not sufficient to meet the child's needs, the parent shall be allowed to divert income to meet the unmet needs of the excluded child. The maximum amount to be diverted shall be the difference between the schedule of basic needs of the eligible group with the child included and the schedule of basic needs with the child excluded, in accordance with the provisions of subrule 75.58(2), minus any countable income of the child.

441—75.60(249A) Pending SSI approval. When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the eligible group pending approval of supplemental security income.

441—75.61 to 75.69 Reserved.

DIVISION III
FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)

441—75.70(249A) Financial eligibility based on modified adjusted gross income (MAGI). Notwithstanding any other provision of this chapter, effective January 1, 2014, financial eligibility for medical assistance shall be determined using "modified adjusted gross income" (MAGI) and "household income" pursuant to 42 U.S.C. § 1396a(e)(14), to the extent required by that section as a condition of federal funding under Title XIX of the Social Security Act. For this purpose, financial eligibility for medical assistance includes any applicable purpose for which a determination of income is required, including the imposition of any premiums or cost sharing. From January 1, 2014, through June 30, 2014, subject to a waiver of the requirements of 42 U.S.C. § 1396a(e)(14) by the federal Centers for Medicare and Medicaid Services, use of MAGI and "household income" shall not be considered to be required by that section for persons otherwise eligible for family planning services under subrule 75.1(41).

[ARC 1134C, IAB 10/30/13, effective 10/2/13; ARC 1212C, IAB 12/11/13, effective 1/1/14; ARC 1356C, IAB 3/5/14, effective 4/9/14]

441—75.71(249A) Income limits. Notwithstanding any other provision of this chapter, effective January 1, 2014, the following income limits apply to the following coverage groups, as identified by the legal references provided:

Coverage Group	Legal Reference	Household Size (persons)	Income Limit (per month)
Family Medical Assistance Program and Child Medical Assistance Program	441—subrule 75.1(14) and 441—subrule 75.1(15); 42 CFR Part 435.110; Title XIX of the Social Security Act, Section 1931	1	\$447
		2	\$716
		3	\$872
		4	\$1,033
		5	\$1,177
		6	\$1,330
		7	\$1,481
		8	\$1,633
		9	\$1,784
		10	\$1,950
			over 10
Mothers and Children, for pregnant women and for infants under one year of age	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		375% of the federal poverty level for the household
Mothers and Children, for children aged 1 through 18 years	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		167% of the federal poverty level for the household
Medicaid for Independent Young Adults	441—subrule 75.1(42); Title XIX of the Social Security Act, Section 1902(a)(10)(A)(ii)(VII)		254% of the federal poverty level for the household

[ARC 1134C, IAB 10/30/13, effective 10/2/13; ARC 1212C, IAB 12/11/13, effective 1/1/14; ARC 1356C, IAB 3/5/14, effective 4/9/14]

These rules are intended to implement Iowa Code section 249A.4.

[Filed 3/11/70; amended 12/17/73, 5/16/74, 7/1/74]

[Filed emergency 1/16/76—published 2/9/76, effective 2/1/76]

[Filed emergency 1/29/76—published 2/9/76, effective 1/29/76]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 1/31/77, Notice 12/1/76—published 2/23/77, effective 3/30/77]

[Filed 4/13/77, Notice 11/3/76—published 5/4/77, effective 6/8/77]

[Filed emergency 6/22/77—published 7/13/77, effective 7/1/77]

[Filed 12/6/77, Notice 10/19/77—published 12/28/77, effective 2/1/78]

[Filed emergency 6/28/78—published 7/26/78, effective 7/1/78]

[Filed emergency 7/28/78 after Notice 4/19/78—published 8/23/78, effective 7/28/78]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]

[Filed 2/2/79, Notice 12/27/78—published 2/21/79, effective 3/28/79]

[Filed 6/5/79, Notice 4/4/79—published 6/27/79, effective 8/1/79]

[Filed emergency 6/26/79—published 7/25/79, effective 7/1/79]

[Filed 8/2/79, Notice 5/30/79—published 8/22/79, effective 9/26/79]

[Filed emergency 5/5/80—published 5/28/80, effective 5/5/80]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed without Notice 9/25/80—published 10/15/80, effective 12/1/80]

[Filed 12/19/80, Notice 10/15/80—published 1/7/81, effective 2/11/81]

[Filed emergency 6/30/81—published 7/22/81, effective 7/1/81]

[Filed 9/25/81, Notice 7/22/81—published 10/14/81, effective 11/18/81]

- [Filed 1/28/82, Notice 10/28/81—published 2/17/82, effective 4/1/82]
- [Filed 1/28/82, Notice 12/9/81—published 2/17/82, effective 4/1/82]
- [Filed emergency 3/26/82—published 4/14/82, effective 4/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 6/1/82]
- [Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]
- [Filed emergency 7/30/82—published 8/18/82, effective 8/1/82]
- [Filed 9/23/82, Notices 6/9/82, 8/4/82—published 10/13/82, effective 12/1/82]
- [Filed emergency 3/18/83—published 4/13/83, effective 4/1/83]
- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 9/26/83—published 10/12/83, effective 10/1/83]
- [Filed 10/28/83, Notice 9/14/83—published 11/23/83, effective 1/1/84]
- [Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]
- [Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
- [Filed emergency 1/13/84—published 2/1/84, effective 2/8/84]
- [Filed emergency 8/31/84—published 9/26/84, effective 10/1/84]
- [Filed emergency 9/28/84—published 10/24/84, effective 10/1/84]
- [Filed emergency 1/17/85—published 2/13/85, effective 1/17/85]
- [Filed without Notice 1/22/85—published 2/13/85, effective 4/1/85]
- [Filed emergency 3/22/85—published 4/10/85, effective 4/1/85]
- [Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]
- [Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
- [Filed 10/1/85, Notice 7/31/85—published 10/23/85, effective 12/1/85]
- [Filed 2/21/86, Notice 1/15/86—published 3/12/86, effective 5/1/86]
- [Filed emergency 3/21/86 after Notice 2/12/86—published 4/9/86, effective 4/1/86]
- [Filed emergency 4/28/86—published 5/21/86, effective 5/1/86]
- [Filed emergency 8/28/86—published 9/24/86, effective 9/1/86]
- [Filed 9/5/86, Notice 6/18/86—published 9/24/86, effective 11/1/86]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed without Notice 1/15/87—published 2/11/87, effective 4/1/87]
- [Filed 3/3/87, Notice 12/31/86—published 3/25/87, effective 5/1/87]
- [Filed 3/26/87, Notice 2/11/87—published 4/22/87, effective 6/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]
- [Filed emergency 5/29/87 after Notice 4/22/87—published 6/17/87, effective 7/1/87]
- [Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
- [Filed emergency after Notice 9/24/87, Notice 8/12/87—published 10/21/87, effective 10/1/87]
- [Filed 9/24/87, Notice 8/12/87—published 10/21/87, effective 12/1/87]
- [Filed emergency after Notice 10/23/87, Notice 9/9/87—published 11/18/87, effective 11/1/87]
- [Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 1/1/88]
- [Filed 1/21/88, Notice 12/16/87—published 2/10/88, effective 4/1/88]
- [Filed emergency 3/16/88—published 4/6/88, effective 3/16/88]
- [Filed 3/17/88, Notice 1/13/88—published 4/6/88, effective 6/1/88]
- [Filed emergency 4/22/88—published 5/18/88, effective 5/1/88]
- [Filed 4/22/88, Notice 3/9/88—published 5/18/88, effective 7/1/88]
- [Filed 6/9/88, Notice 4/20/88—published 6/29/88, effective 9/1/88]
- [Filed 8/4/88, Notices 6/29/88^o—published 8/24/88, effective 10/1/88]
- [Filed without Notice 9/21/88—published 10/19/88, effective 12/1/88]
- [Filed 10/27/88, Notice 8/24/88—published 11/16/88, effective 1/1/89]
- [Filed emergency 11/14/88—published 11/30/88, effective 11/14/88]
- [Filed emergency 12/8/88 after Notices 10/19/88, 11/2/88—published 12/28/88, effective 1/1/89]
- [Filed emergency 4/13/89 after Notice 3/8/89—published 5/3/89, effective 5/1/89]
- [Filed 4/13/89, Notice 2/22/89—published 5/3/89, effective 7/1/89]
- [Filed 5/10/89, Notice 4/5/89—published 5/31/89, effective 8/1/89]

- [Filed emergency 6/9/89 after Notice 5/3/89—published 6/28/89, effective 7/1/89]
 - [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
- [Filed 7/14/89, Notices 4/19/89, 5/31/89—published 8/9/89, effective 10/1/89]
 - [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
 - [Filed emergency 10/10/89—published 11/1/89, effective 12/1/89]
 - [Filed 10/10/89, Notice 8/23/89—published 11/1/89, effective 1/1/90]
 - [Filed 12/19/89, Notice 11/1/89—published 1/10/90, effective 3/1/90]
 - [Filed emergency 1/10/90—published 2/7/90, effective 1/10/90]
 - [Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
 - [Filed emergency 2/16/90—published 3/7/90, effective 4/1/90]
 - [Filed without Notice 2/16/90—published 3/7/90, effective 5/1/90]
 - [Filed emergency 3/14/90—published 4/4/90, effective 3/14/90]
 - [Filed 3/16/90, Notice 2/7/90—published 4/4/90, effective 6/1/90]
 - [Filed 4/13/90, Notice 3/7/90—published 5/2/90, effective 7/1/90]
 - [Filed emergency 6/13/90—published 7/11/90, effective 6/14/90]
- [Filed emergency 6/20/90 after Notice 4/18/90—published 7/11/90, effective 7/1/90]
 - [Filed 7/13/90, Notice 5/16/90—published 8/8/90, effective 10/1/90]
- [Filed emergency 8/16/90 after Notice of 6/27/90—published 9/5/90, effective 10/1/90]
 - [Filed 8/16/90, Notices 6/13/90, 7/11/90—published 9/5/90, effective 11/1/90]
 - [Filed emergency 12/13/90—published 1/9/91, effective 1/1/91]
 - [Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 5/1/91]
 - [Filed emergency 3/14/91—published 4/3/91, effective 3/14/91]
 - [Filed 3/14/91, Notice 1/23/91—published 4/3/91, effective 6/1/91]
 - [Filed emergency 4/11/91—published 5/1/91, effective 4/11/91]
 - [Filed 4/11/91, Notice 2/20/91—published 5/1/91, effective 7/1/91]
- [Filed emergency 5/17/91 after Notice 4/3/91—published 6/12/91, effective 7/1/91]
 - [Filed 5/17/91, Notices 4/3/90^o—published 6/12/91, effective 8/1/91]
- [Filed emergency 6/14/91 after Notice 5/1/91—published 7/10/91, effective 7/1/91]
 - [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
 - [Filed 8/8/91, Notice 6/26/91—published 9/4/91, effective 11/1/91]
- [Filed emergency 9/18/91 after Notice 4/17/91—published 10/16/91, effective 10/1/91]
 - [Filed 9/18/91, Notice 7/10/91—published 10/16/91, effective 12/1/91]
 - [Filed emergency 12/11/91—published 1/8/92, effective 1/1/92]
- [Filed emergency 12/11/91 after Notice 10/30/91—published 1/8/92, effective 1/1/92]
 - [Filed 12/11/92, Notice 10/16/91—published 1/8/92, effective 3/1/92]¹
 - [Filed 1/15/92, Notice 11/13/91—published 2/5/92, effective 4/1/92]
 - [Filed 2/13/92, Notices 1/8/92^o—published 3/4/92, effective 5/1/92]
 - [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 4/16/92 after Notice 2/19/92—published 5/13/92, effective 5/1/92]
- [Filed emergency 5/14/92 after Notice 3/18/92—published 6/10/92, effective 7/1/92]
 - [Filed 5/14/92, Notices 3/18/92^o—published 6/10/92, effective 8/1/92]
 - [Filed 6/11/92, Notice 4/29/92—published 7/8/92, effective 9/1/92]
 - [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
 - [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
 - [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
 - [Filed emergency 12/1/92—published 12/23/92, effective 1/1/93]
- [Filed emergency 1/14/93 after Notice 10/28/92—published 2/3/93, effective 2/1/93]
- [Filed 1/14/93, Notices 10/28/92, 11/25/92, 12/9/92—published 2/3/93, effective 4/1/93]
 - [Filed 2/10/93, Notice 12/23/92—published 3/3/93, effective 5/1/93]
 - [Filed 4/15/93, Notice 2/17/93—published 5/12/93, effective 7/1/93]
 - [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
- [Filed emergency 6/11/93 after Notice 4/28/93—published 7/7/93, effective 7/1/93]

- [Filed 7/14/93, Notice 5/12/93—published 8/4/93, effective 10/1/93]
- [Filed 8/12/93, Notice 7/7/93—published 9/1/93, effective 11/1/93]
- [Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
- [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
- [Filed emergency 11/12/93—published 12/8/93, effective 1/1/94]
- [Filed emergency 12/16/93—published 1/5/94, effective 1/1/94]
- [Filed without Notice 12/16/93—published 1/5/94, effective 2/9/94]
- [Filed 12/16/93, Notices 10/13/93, 10/27/93—published 1/5/94, effective 3/1/94]
- [Filed 2/10/94, Notices 12/8/93, 1/5/94^o—published 3/2/94, effective 5/1/94]
- [Filed 3/10/94, Notice 2/2/94—published 3/30/94, effective 6/1/94]
- [Filed 4/14/94, Notice 2/16/94—published 5/11/94, effective 7/1/94]
- [Filed 5/11/94, Notice 3/16/94—published 6/8/94, effective 8/1/94]
- [Filed 6/16/94, Notice 4/27/94—published 7/6/94, effective 9/1/94]
- [Filed 9/15/94, Notice 8/3/94—published 10/12/94, effective 11/16/94]
- [Filed 10/12/94, Notice 8/17/94—published 11/9/94, effective 1/1/95]
- [Filed emergency 12/15/94—published 1/4/95, effective 1/1/95]
- [Filed 12/15/94, Notices 10/26/94, 11/9/94—published 1/4/95, effective 3/1/95]
- [Filed 2/16/95, Notices 11/23/94, 12/21/94, 1/4/95—published 3/15/95, effective 5/1/95]
- [Filed 4/13/95, Notices 2/15/95, 3/1/95—published 5/10/95, effective 7/1/95]
- [Filed emergency 9/25/95—published 10/11/95, effective 10/1/95]
- [Filed 11/16/95, Notices 9/27/95, 10/11/95—published 12/6/95, effective 2/1/96]
- [Filed emergency 12/12/95—published 1/3/96, effective 1/1/96]
- [Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 3/1/96]
- [Filed 2/14/96, Notice 1/3/96—published 3/13/96, effective 5/1/96]
- [Filed 4/10/96, Notice 2/14/96—published 5/8/96, effective 7/1/96]
- [Filed emergency 9/19/96—published 10/9/96, effective 9/19/96]
- [Filed 10/9/96, Notice 8/28/96—published 11/6/96, effective 1/1/97]
- [Filed emergency 12/12/96—published 1/1/97, effective 1/1/97]^o
- [Filed 12/12/96, Notices 9/11/96, 10/9/96—published 1/1/97, effective 3/1/97]
- [Filed 2/12/97, Notice 1/1/97—published 3/12/97, effective 5/1/97]
- [Filed 3/12/97, Notice 1/1/97—published 4/9/97, effective 6/1/97]
- [Filed 4/11/97, Notice 2/26/97—published 5/7/97, effective 7/1/97]
- [Filed emergency 9/16/97—published 10/8/97, effective 10/1/97]
- [Filed 9/16/97, Notice 7/16/97—published 10/8/97, effective 12/1/97]
- [Filed emergency 12/10/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 12/10/97 after Notices 10/22/97, 11/5/97—published 12/31/97, effective 1/1/98]
- [Filed emergency 1/14/98 after Notice 11/19/97—published 2/11/98, effective 2/1/98]
- [Filed 2/11/98, Notice 12/31/97—published 3/11/98, effective 5/1/98]^o
- [Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
- [Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed emergency 6/25/98—published 7/15/98, effective 7/1/98]
- [Filed 7/15/98, Notices 6/3/98—published 8/12/98, effective 10/1/98]
- [Filed 8/12/98, Notices 6/17/98, 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
- [Filed emergency 12/9/98—published 12/30/98, effective 1/1/99]
- [Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/15/99]
- [Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
- [Filed 3/10/99, Notice 1/27/99—published 4/7/99, effective 7/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed 5/14/99, Notice 4/7/99—published 6/2/99, effective 8/1/99]

- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
- [Filed emergency 8/12/99 after Notice 6/16/99—published 9/8/99, effective 9/1/99]
- [Filed 8/11/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed emergency 11/10/99 after Notice 10/6/99—published 12/1/99, effective 12/1/99]
- [Filed emergency 12/8/99—published 12/29/99, effective 1/1/00]
- [Filed 12/8/99, Notice 11/3/99—published 12/29/99, effective 2/2/00]
- [Filed 12/8/99, Notice 10/6/99—published 12/29/99, effective 3/1/00]
- [Filed 2/9/00, Notice 12/29/99—published 3/8/00, effective 5/1/00]◊
- [Filed emergency 3/8/00—published 4/5/00, effective 4/1/00]
- [Filed 5/10/00, Notice 3/22/00—published 5/31/00, effective 8/1/00]
- [Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
- [Filed emergency 6/8/00 after Notice 4/19/00—published 6/28/00, effective 7/1/00]
- [Filed 6/8/00, Notice 4/5/00—published 6/28/00, effective 9/1/00]
- [Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
- [Filed emergency 9/12/00 after Notice 7/12/00—published 10/4/00, effective 10/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]
- [Filed emergency 12/14/00—published 1/10/01, effective 1/1/01]
- [Filed 2/14/01, Notice 1/10/01—published 3/7/01, effective 5/1/01]
- [Filed emergency 6/13/01—published 7/11/01, effective 7/1/01]◊
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01]◊
- [Filed 10/10/01, Notice 8/22/01—published 10/31/01, effective 1/1/02]
- [Filed emergency 12/12/01—published 1/9/02, effective 1/1/02]
- [Filed 1/9/02, Notice 11/14/01—published 2/6/02, effective 4/1/02]
- [Filed 2/14/02, Notice 12/26/01—published 3/6/02, effective 5/1/02]
- [Filed 2/14/02, Notice 1/9/02—published 3/6/02, effective 5/1/02]
- [Filed 3/13/02, Notice 1/23/02—published 4/3/02, effective 6/1/02]◊
- [Filed emergency 6/13/02—published 7/10/02, effective 7/1/02]
- [Filed 10/10/02, Notice 8/21/02—published 10/30/02, effective 1/1/03]
- [Filed emergency 12/12/02—published 1/8/03, effective 1/1/03]◊
- [Filed emergency 1/9/03 after Notice 11/27/02—published 2/5/03, effective 2/1/03]
- [Filed 1/9/03, Notice 11/27/02—published 2/5/03, effective 4/1/03]
- [Filed emergency 3/14/03—published 4/2/03, effective 4/1/03]
- [Filed without Notice 5/16/03—published 6/11/03, effective 7/16/03]
- [Filed 9/22/03, Notice 7/9/03—published 10/15/03, effective 12/1/03]
- [Filed emergency 10/10/03—published 10/29/03, effective 10/10/03]
- [Filed emergency 10/10/03—published 10/29/03, effective 11/1/03]
- [Filed 10/10/03, Notice 8/20/03—published 10/29/03, effective 1/1/04]
- [Filed emergency 11/19/03—published 12/10/03, effective 1/1/04]
- [Filed emergency 3/11/04—published 3/31/04, effective 4/1/04]
- [Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]
- [Filed emergency 9/23/04 after Notice 7/7/04—published 10/13/04, effective 10/1/04]
- [Filed 10/8/04, Notice 7/7/04—published 10/27/04, effective 12/1/04]
- [Filed 10/14/04, Notice 8/4/04—published 11/10/04, effective 1/1/05]
- [Filed emergency 12/14/04—published 1/5/05, effective 1/1/05]
- [Filed emergency 1/13/05 after Notice 12/8/04—published 2/2/05, effective 2/1/05]
- [Filed without Notice 5/4/05—published 5/25/05, effective 7/1/05]
- [Filed emergency 6/17/05 after Notice 8/4/04—published 7/6/05, effective 7/1/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
- [Filed emergency 7/15/05 after Notice 5/11/05—published 8/3/05, effective 8/1/05]

- [Filed 10/21/05, Notice 8/31/05—published 11/9/05, effective 1/1/06]
- [Filed emergency 11/16/05—published 12/7/05, effective 12/1/05]
- [Filed emergency 12/14/05—published 1/4/06, effective 1/1/06]
- [Filed emergency 1/12/06 after Notice 11/23/05—published 2/1/06, effective 2/1/06]
- [Filed 2/10/06, Notice 1/4/06—published 3/1/06, effective 4/5/06]
- [Filed without Notice 4/17/06—published 5/10/06, effective 7/1/06]
- [Filed emergency 5/12/06—published 6/7/06, effective 6/1/06]
- [Filed emergency 6/16/06 after Notice 4/12/06—published 7/5/06, effective 7/1/06]
- [Filed emergency 6/16/06 after Notice 5/10/06—published 7/5/06, effective 7/1/06]
- [Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]◊
- [Filed 7/14/06, Notice 6/7/06—published 8/2/06, effective 9/6/06]
- [Filed 10/20/06, Notice 8/2/06—published 11/8/06, effective 1/1/07]
- [Filed 11/8/06, Notice 7/5/06—published 12/6/06, effective 1/10/07]
- [Filed 12/13/06, Notice 7/5/06—published 1/3/07, effective 2/7/07]
- [Filed 4/11/07, Notice 2/28/07—published 5/9/07, effective 7/1/07]
- [Filed 5/16/07, Notice 2/14/07—published 6/6/07, effective 8/1/07]
- [Filed emergency 6/13/07—published 7/4/07, effective 7/1/07]◊
- [Filed emergency 6/15/07—published 7/4/07, effective 7/1/07]◊
- [Filed emergency 6/13/07—published 7/4/07, effective 8/1/07]
- [Filed emergency 7/12/07 after Notice 5/9/07—published 8/1/07, effective 8/1/07]
- [Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]◊
- [Filed emergency 10/10/07 after Notice 8/29/07—published 11/7/07, effective 11/1/07]
- [Filed 12/12/07, Notice 7/4/07—published 1/2/08, effective 2/6/08]◊
- [Filed emergency 1/9/08 after Notice 12/5/07—published 1/30/08, effective 2/1/08]
- [Filed emergency 2/13/08 after Notice 12/19/07—published 3/12/08, effective 2/15/08]
- [Filed emergency 3/12/08—published 4/9/08, effective 3/12/08]
- [Filed 4/10/08, Notice 1/30/08—published 5/7/08, effective 7/1/08]
- [Filed 4/10/08, Notice 2/27/08—published 5/7/08, effective 7/1/08]
- [Filed emergency 6/11/08—published 7/2/08, effective 7/1/08]◊
- [Filed 6/11/08, Notice 4/9/08—published 7/2/08, effective 8/6/08]
- [Filed 7/9/08, Notice 5/7/08—published 7/30/08, effective 10/1/08]
- [Filed emergency 10/14/08 after Notice 7/2/08—published 11/5/08, effective 11/1/08]
- [Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
- [Filed emergency 11/12/08 after Notice 9/24/08—published 12/3/08, effective 1/1/09]
- [Filed 11/12/08, Notice 8/13/08—published 12/3/08, effective 2/1/09]
- [Filed ARC 7546B (Notice ARC 7356B, IAB 11/19/08), IAB 2/11/09, effective 4/1/09]
- [Filed ARC 7741B (Notice ARC 7526B, IAB 1/28/09), IAB 5/6/09, effective 7/1/09]
- [Filed ARC 7834B (Notice ARC 7630B, IAB 3/11/09), IAB 6/3/09, effective 7/8/09]
- [Filed ARC 7833B (Notice ARC 7629B, IAB 3/11/09), IAB 6/3/09, effective 8/1/09]
- [Filed Emergency ARC 7929B, IAB 7/1/09, effective 7/1/09]
- [Filed Emergency ARC 7931B, IAB 7/1/09, effective 7/1/09]
- [Filed Emergency ARC 7932B, IAB 7/1/09, effective 7/1/09]
- [Filed ARC 7935B (Notice ARC 7718B, IAB 4/22/09), IAB 7/1/09, effective 9/1/09]
- [Filed ARC 8095B (Notice ARC 7930B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
- [Filed ARC 8096B (Notice ARC 7934B, IAB 7/1/09), IAB 9/9/09, effective 10/14/09]
- [Filed ARC 8260B (Notice ARC 8056B, IAB 8/26/09), IAB 11/4/09, effective 1/1/10]
- [Filed Emergency After Notice ARC 8261B, IAB 11/4/09, effective 10/15/09]
- [Filed ARC 8439B (Notice ARC 8083B, IAB 8/26/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8443B (Notice ARC 8220B, IAB 10/7/09), IAB 1/13/10, effective 3/1/10]
- [Filed ARC 8444B (Notice ARC 8221B, IAB 10/7/09), IAB 1/13/10, effective 3/1/10]
- [Filed Emergency After Notice ARC 8503B (Notice ARC 8311B, IAB 11/18/09), IAB 2/10/10, effective 1/13/10]

- [Filed Emergency After Notice ARC 8500B (Notice ARC 8272B, IAB 11/4/09), IAB 2/10/10, effective 3/1/10]
- [Filed Emergency After Notice ARC 8556B (Notice ARC 8407B, IAB 12/16/09), IAB 3/10/10, effective 2/10/10]
- [Filed ARC 8642B (Notice ARC 8461B, IAB 1/13/10), IAB 4/7/10, effective 6/1/10]
- [Filed Without Notice ARC 8713B, IAB 5/5/10, effective 8/1/10]
- [Filed Emergency After Notice ARC 8786B (Notice ARC 8552B, IAB 2/24/10), IAB 6/2/10, effective 6/1/10]
- [Filed ARC 8785B (Notice ARC 8619B, IAB 3/24/10), IAB 6/2/10, effective 8/1/10]
- [Filed Emergency ARC 8898B, IAB 6/30/10, effective 7/1/10]
- [Filed ARC 8897B (Notice ARC 8705B, IAB 4/21/10), IAB 6/30/10, effective 9/1/10]
- [Filed ARC 9043B (Notice ARC 8853B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
- [Filed ARC 9044B (Notice ARC 8864B, IAB 6/16/10), IAB 9/8/10, effective 11/1/10]
- [Filed ARC 9404B (Notice ARC 9277B, IAB 12/15/10), IAB 3/9/11, effective 5/1/11]
- [Filed ARC 9439B (Notice ARC 9309B, IAB 12/29/10), IAB 4/6/11, effective 6/1/11]
- [Filed Emergency ARC 9582B, IAB 6/29/11, effective 7/1/11]
- [Filed ARC 9581B (Notice ARC 9479B, IAB 4/20/11), IAB 6/29/11, effective 8/3/11]
- [Filed Emergency ARC 9647B, IAB 8/10/11, effective 8/1/11]
- [Filed Emergency ARC 9696B, IAB 9/7/11, effective 9/1/11]
- [Filed ARC 9881B (Notice ARC 9697B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]
- [Filed Emergency After Notice ARC 9956B (Notice ARC 9648B, IAB 8/10/11), IAB 1/11/12, effective 1/1/12]
- [Filed Emergency After Notice ARC 9957B (Notice ARC 9804B, IAB 10/19/11), IAB 1/11/12, effective 1/1/12]
- [Filed ARC 0149C (Notice ARC 0047C, IAB 3/21/12), IAB 6/13/12, effective 8/1/12]
- [Filed Emergency ARC 0192C, IAB 7/11/12, effective 7/1/12]
- [Filed ARC 0579C (Notice ARC 0432C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
- [Filed Emergency After Notice ARC 0822C (Notice ARC 0690C, IAB 4/17/13), IAB 7/10/13, effective 7/1/13]
- [Filed Emergency After Notice ARC 0821C (Notice ARC 0691C, IAB 4/17/13), IAB 7/10/13, effective 7/1/13]
- [Filed Emergency After Notice ARC 0820C (Notice ARC 0668C, IAB 4/3/13), IAB 7/10/13, effective 8/1/13]
- [Filed ARC 0990C (Notice ARC 0746C, IAB 5/15/13), IAB 9/4/13, effective 1/1/14]
- [Filed Emergency After Notice ARC 1134C (Notice ARC 0971C, IAB 8/21/13), IAB 10/30/13, effective 10/2/13]
- [Filed Emergency ARC 1212C, IAB 12/11/13, effective 1/1/14]
- [Filed Emergency ARC 1266C, IAB 1/8/14, effective 1/1/14]
- [Filed ARC 1355C (Notice ARC 1265C, IAB 1/8/14), IAB 3/5/14, effective 4/9/14]
- [Filed ARC 1356C (Notice ARC 1211C, IAB 12/11/13), IAB 3/5/14, effective 4/9/14]
- [Filed ARC 1447C (Notice ARC 1368C, IAB 3/5/14), IAB 4/30/14, effective 7/1/14]
- [Filed Emergency After Notice ARC 1484C (Notice ARC 1415C, IAB 4/2/14), IAB 6/11/14, effective 7/1/14]
- [Filed Emergency After Notice ARC 1483C (Notice ARC 1416C, IAB 4/2/14), IAB 6/11/14, effective 7/1/14]
- [Filed ARC 1482C (Notice ARC 1417C, IAB 4/2/14), IAB 6/11/14, effective 8/1/14]

⁰ Two or more ARCs

¹ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

CHAPTER 79
OTHER POLICIES RELATING TO PROVIDERS OF
MEDICAL AND REMEDIAL CARE
[Prior to 7/1/83, Social Services[770] Ch 79]

441—79.1(249A) Principles governing reimbursement of providers of medical and health services. The basis of payment for services rendered by providers of services participating in the medical assistance program is either a system based on the provider's allowable costs of operation or a fee schedule. Generally, institutional types of providers such as hospitals and nursing facilities are reimbursed on a cost-related basis, and practitioners such as physicians, dentists, optometrists, and similar providers are reimbursed on the basis of a fee schedule. Providers of service must accept reimbursement based upon the department's methodology without making any additional charge to the member.

79.1(1) Types of reimbursement.

a. Prospective cost-related. Providers are reimbursed on the basis of a per diem rate calculated prospectively for each participating provider based on reasonable and proper costs of operation. The rate is determined by establishing a base year per diem rate to which an annual index is applied.

b. Retrospective cost-related. Providers are reimbursed on the basis of a per diem rate calculated retrospectively for each participating provider based on reasonable and proper costs of operation with suitable retroactive adjustments based on submission of financial and statistical reports by the provider. The retroactive adjustment represents the difference between the amount received by the provider during the year for covered services and the amount determined in accordance with an accepted method of cost apportionment (generally the Medicare principles of apportionment) to be the actual cost of service rendered medical assistance recipients.

c. Fee schedules. Fees for the various procedures involved are determined by the department with advice and consultation from the appropriate professional group. The fees are intended to reflect the amount of resources (time, training, experience) involved in each procedure. Individual adjustments will be made periodically to correct any inequity or to add new procedures or eliminate or modify others. If product cost is involved in addition to service, reimbursement is based either on a fixed fee, wholesale cost, or on actual acquisition cost of the product to the provider, or product cost is included as part of the fee schedule. Providers on fee schedules are reimbursed the lower of:

- (1) The actual charge made by the provider of service.
- (2) The maximum allowance under the fee schedule for the item of service in question.

Payment levels for fee schedule providers of service will be increased on an annual basis by an economic index reflecting overall inflation as well as inflation in office practice expenses of the particular provider category involved to the extent data is available. Annual increases will be made beginning July 1, 1988.

There are some variations in this methodology which are applicable to certain providers. These are set forth below in subrules 79.1(3) to 79.1(9) and 79.1(15).

Fee schedules in effect for the providers covered by fee schedules can be obtained from the department's Web site at: http://www.ime.state.ia.us/Reports_Publications/FeeSchedules.html.

d. Fee for service with cost settlement. Providers of case management services shall be reimbursed on the basis of a payment rate for a 15-minute unit of service based on reasonable and proper costs for service provision. The fee will be determined by the department with advice and consultation from the appropriate professional group and will reflect the amount of resources involved in service provision.

(1) Providers are reimbursed throughout each fiscal year on the basis of a projected unit rate for each participating provider. The projected rate is based on reasonable and proper costs of operation, pursuant to federally accepted reimbursement principles (generally Medicare or OMB A-87 principles).

(2) Payments are subject to annual retrospective cost settlement based on submission of actual costs of operation and service utilization data by the provider on Form 470-0664, Financial and Statistical Report. The cost settlement represents the difference between the amount received by the provider

during the year for covered services and the amount supported by the actual costs of doing business, determined in accordance with an accepted method of cost appointment.

(3) The methodology for determining the reasonable and proper cost for service provision assumes the following:

1. The indirect administrative costs shall be limited to 23 percent of other costs. Other costs include: professional staff – direct salaries, other – direct salaries, benefits and payroll taxes associated with direct salaries, mileage and automobile rental, agency vehicle expense, automobile insurance, and other related transportation.

2. Mileage shall be reimbursed at a rate no greater than the state employee rate.

3. The rates a provider may charge are subject to limits established at 79.1(2).

4. Costs of operation shall include only those costs that pertain to the provision of services which are authorized under rule 441—90.3(249A).

e. Retrospectively limited prospective rates. Providers are reimbursed on the basis of a rate for a unit of service calculated prospectively for each participating provider (and, for supported community living daily rates, for each consumer or site) based on projected or historical costs of operation subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment pursuant to subparagraph 79.1(1)“e”(3).

(1) The prospective rates for new providers who have not submitted six months of cost reports will be based on a projection of the provider’s reasonable and proper costs of operation until the provider has submitted an annual cost report that includes a minimum of six months of actual costs.

(2) The prospective rates paid established providers who have submitted an annual report with a minimum of a six-month history are based on reasonable and proper costs in a base period and are adjusted annually for inflation.

(3) The prospective rates paid to both new and established providers are subject to the maximums listed in subrule 79.1(2) and to retrospective adjustment based on the provider’s actual, current costs of operation as shown by financial and statistical reports submitted by the provider, so as not to exceed reasonable and proper costs actually incurred by more than 4.5 percent.

f. Contractual rate. Providers are reimbursed on a basis of costs incurred pursuant to a contract between the provider and subcontractor.

g. Retrospectively adjusted prospective rates. Critical access hospitals are reimbursed prospectively, with retrospective adjustments based on annual cost reports submitted by the hospital at the end of the hospital’s fiscal year. The retroactive adjustment equals the difference between the reasonable costs of providing covered services to eligible fee-for-service Medicaid members (excluding members in managed care), determined in accordance with Medicare cost principles, and the Medicaid reimbursement received. Amounts paid that exceed reasonable costs shall be recovered by the department. See paragraphs 79.1(5)“aa” and 79.1(16)“h.”

h. Indian health service 638 facilities. Indian health service 638 facilities as defined at rule 441—77.45(249A) are paid a special daily base encounter rate for all Medicaid-covered services rendered to American Indian or Alaskan native persons who are Medicaid-eligible. This rate is updated periodically and published in the Federal Register after being approved by the Office of Management and Budget. Indian health service 638 facilities may bill only one charge per patient per day for services provided to American Indians or Alaskan natives, which shall include all services provided on that day.

Services provided to Medicaid recipients who are not American Indians or Alaskan natives will be paid at the fee schedule allowed by Iowa Medicaid for the services provided and will be billed separately by CPT code on the CMS-1500 Health Insurance Claim Form. Claims for services provided to Medicaid recipients who are not American Indians or Alaskan natives must be submitted by the individual practitioner enrolled in the Iowa Medicaid program, but may be paid to the facility if the provider agreement so stipulates.

79.1(2) Basis of reimbursement of specific provider categories.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Advanced registered nurse practitioners	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect 6/30/13 plus 10%. Air ambulance: Fee schedule in effect 6/30/13 plus 10%.
Ambulatory surgical centers	Base rate fee schedule as determined by Medicare. See 79.1(3)	Fee schedule in effect 6/30/13 plus 1%.
Area education agencies	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%.
Assertive community treatment	Fee schedule	\$51.08 per day for each day on which a team meeting is held. Maximum of 5 days per week.
Audiologists	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Behavioral health intervention	Fee schedule as determined by the Iowa Plan for Behavioral Health	Fee schedule in effect 7/1/13.
Behavioral health services	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Birth centers	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Chiropractors	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Clinics	Fee schedule	Maximum physician reimbursement rate.
Community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3)	Retrospective cost-related. See 79.1(25)	100% of reasonable Medicaid cost as determined by Medicare cost reimbursement principles.
Dentists	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect 6/30/13 plus 1%.
Family planning clinics	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Federally qualified health centers	Retrospective cost-related. See 441—88.14(249A)	1. Prospective payment rate as required by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000) or an alternative methodology allowed thereunder, as specified in “2” below. 2. 100% of reasonable cost as determined by Medicare cost reimbursement principles.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
HCBS waiver service providers, including:		<p>3. In the case of services provided pursuant to a contract between an FQHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" or "2" above.</p> <p>Except as noted, limits apply to all waivers that cover the named provider.</p>
1. Adult day care	Fee schedule	<p>Effective 7/1/13, for AIDS/HIV, brain injury, elderly, and ill and handicapped waivers: Provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/13 rate: Veterans Administration contract rate or \$1.45 per 15-minute unit, \$23.24 per half day, \$46.26 per full day, or \$69.37 per extended day if no Veterans Administration contract.</p> <p>Effective 7/1/13, for intellectual disability waiver: County contract rate or, in the absence of a contract rate, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/13 rate, \$1.94 per 15-minute unit, \$30.96 per half day, \$61.80 per full day, or \$78.80 per extended day.</p>
2. Emergency response system:		
Personal response system	Fee schedule	<p>Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: Initial one-time fee: \$52.04. Ongoing monthly fee: \$40.47.</p>
Portable locator system	Fee schedule	<p>Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: One equipment purchase: \$323.26. Initial one-time fee: \$52.04. Ongoing monthly fee: \$40.47.</p>

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
3. Home health aides	Retrospective cost-related	For AIDS/HIV, elderly, and health and disability waivers effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3% or maximum Medicaid rate in effect 6/30/13 plus 3%. For intellectual disability waiver effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3% or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to an hourly rate.
4. Homemakers	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$5.20 per 15-minute unit.
5. Nursing care	For elderly and intellectual disability waivers: Fee schedule as determined by Medicare.	For elderly waiver effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$87.12 per visit. For intellectual disability waiver effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3% or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to an hourly rate.
	For AIDS/HIV and health and disability waivers: Agency's financial and statistical cost report and Medicare percentage rate per visit.	For AIDS/HIV and health and disability waivers effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$87.12 per visit.
6. Respite care when provided by: Home health agency: Specialized respite	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, not to exceed \$311.97 per day.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Basic individual respite	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, not to exceed \$311.97 per day.
Group respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed \$311.97 per day.
Home care agency:		
Specialized respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$8.87 per 15-minute unit, not to exceed \$311.97 per day.
Basic individual respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$4.73 per 15-minute unit, not to exceed \$311.97 per day.
Group respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed \$311.97 per day.
Nonfacility care:		
Specialized respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$8.87 per 15-minute unit, not to exceed \$311.97 per day.
Basic individual respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$4.73 per 15-minute unit, not to exceed \$311.97 per day.
Group respite	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed \$311.97 per day.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Facility care:		
Hospital or nursing facility providing skilled care	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed the facility's daily Medicaid rate for skilled nursing level of care.
Nursing facility	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Camps	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed \$311.97 per day.
Adult day care	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed rate for regular adult day care services.
Intermediate care facility for persons with an intellectual disability	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Residential care facilities for persons with an intellectual disability	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed contractual daily rate.
Foster group care	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed daily rate for child welfare services.
Child care facilities	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit, not to exceed contractual daily rate.
7. Chore service	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$4.05 per 15-minute unit.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
8. Home-delivered meals	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$8.10 per meal. Maximum of 14 meals per week.
9. Home and vehicle modification	Fee schedule. See 79.1(17)	For elderly waiver effective 7/1/13: \$1,061.11 lifetime maximum. For intellectual disability waiver effective 7/1/13: \$5,305.53 lifetime maximum. For brain injury, health and disability, and physical disability waivers effective 7/1/13: \$6,366.64 per year.
10. Mental health outreach providers	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: On-site Medicaid reimbursement rate for center or provider. Maximum of 1,440 units per year.
11. Transportation	Fee schedule	Effective 10/1/13: The provider's nonemergency medical transportation contract rate or, in the absence of a nonemergency medical transportation contract rate, the median nonemergency medical transportation contract rate paid per mile or per trip within the member's DHS region.
12. Nutritional counseling	Fee schedule	Effective 7/1/13 for non-county contract: Provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$8.67 per 15-minute unit.
13. Assistive devices	Fee schedule. See 79.1(17)	Effective 7/1/13: \$115.62 per unit.
14. Senior companion	Fee schedule	Effective 7/1/13 for non-county contract: Provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$1.87 per 15-minute unit.
15. Consumer-directed attendant care provided by: Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$5.30 per 15-minute unit, not to exceed \$122.62 per day.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$5.30 per 15-minute unit, not to exceed \$122.62 per day.
Individual	Fee agreed upon by member and provider	Effective 7/1/13, \$3.54 per 15-minute unit, not to exceed \$82.53 per day.
16. Counseling:		
Individual	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$11.34 per 15-minute unit.
Group	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$11.33 per 15-minute unit. Rate is divided by six, or, if the number of persons who comprise the group exceeds six, the actual number of persons who comprise the group.
17. Case management	Fee for service with cost settlement. See 79.1(1) "d."	For brain injury and elderly waivers: Retrospective cost-settled rate.
18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	For intellectual disability and brain injury waiver effective 7/1/13: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 3%.
19. Supported employment:		
Activities to obtain a job:		
Job development	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$955.00 per unit (job placement). Maximum of two units per 12 months.
Employer development	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$955.00 per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/13: \$9.19 per 15-minute unit. Maximum of 104 units per 12 months.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/13: \$9.19 per 15-minute unit for all activities other than personal care and services in an enclave setting. \$5.20 per 15-minute unit for personal care. \$1.63 per 15-minute unit for services in an enclave setting. \$3,029.62 per month for total service. Maximum of 160 units per week.
20. Specialized medical equipment	Fee schedule. See 79.1(17)	Effective 7/1/13, \$6,366.64 per year.
21. Behavioral programming	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$11.34 per 15 minutes.
22. Family counseling and training	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$11.33 per 15-minute unit.
23. Prevocational services	Fee schedule	County contract rate or, in absence of a contract rate, effective 7/1/13: Lesser of provider's rate in effect 6/30/13 plus 3%, \$50.66 per day or \$13.87 per hour.
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate.
Child development home or center	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit.
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$9.19 per 15-minute unit, not to exceed the maximum ICF/ID rate per day plus 3%.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
25. Residential-based supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/13: Not to exceed the maximum ICF/ID rate per day plus 3%.
26. Day habilitation	Fee schedule	Effective 7/1/13: County contract rate converted to a 15-minute or daily rate or, in the absence of a contract rate, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute or daily rate. If no 6/30/13 rate: \$3.47 per 15-minute unit or \$67.55 per day.
27. Environmental modifications and adaptive devices	Fee schedule. See 79.1(17)	Effective 7/1/13, \$6,366.64 per year.
28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$9.19 per 15-minute unit.
29. In-home family therapy	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$24.60 per 15-minute unit.
30. Financial management services	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$68.97 per enrolled member per month.
31. Independent support broker	Rate negotiated by member	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%. If no 6/30/13 rate: \$15.91 per hour.
32. Self-directed personal care	Rate negotiated by member	Determined by member's individual budget.
33. Self-directed community supports and employment	Rate negotiated by member	Determined by member's individual budget.
34. Individual-directed goods and services	Rate negotiated by member	Determined by member's individual budget.
35. Assisted living on-call service providers (elderly waiver only)	Fee agreed upon by member and provider.	\$25.75 per day.
Health home services provider	Fee schedule based on the member's qualifying health condition(s).	Monthly fee schedule amount.
Hearing aid dispensers	Fee schedule plus product acquisition cost	Fee schedule in effect 6/30/13 plus 1%.
Home- and community-based habilitation services:		
1. Case management	See 79.1(24) "d"	Retrospective cost-settled rate.
2. Home-based habilitation	See 79.1(24) "d"	Effective 7/1/13: \$11.68 per 15-minute unit, not to exceed \$6,083 per month, or \$200 per day.
3. Day habilitation	See 79.1(24) "d"	Effective 7/1/13: \$3.30 per 15-minute unit or \$64.29 per day.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
4. Prevocational habilitation	See 79.1(24) "d"	Effective 7/1/13: \$13.47 per hour or \$48.22 per day.
5. Supported employment:		
Activities to obtain a job:		
Job development	See 79.1(24) "d"	\$909 per unit (job placement). Maximum of two units per 12 months.
Employer development	See 79.1(24) "d"	\$909 per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	See 79.1(24) "d"	Effective 7/1/13: Maximum of \$8.75 per 15-minute unit and 104 units per 12 months.
Supports to maintain employment	See 79.1(24) "d"	Effective 7/1/13: \$1.55 per 15-minute unit for services in an enclave setting; \$4.95 per 15-minute unit for personal care; and \$8.75 per 15-minute unit for all other services. Total not to exceed \$2,883.71 per month. Maximum of 160 units per week.
Home health agencies		
1. Skilled nursing, physical therapy, occupational therapy, speech therapy, home health aide, and medical social services; home health care for maternity patients and children	Fee schedule. See 79.1(26). For members living in a nursing facility, see 441—paragraph 81.6(11) "r."	Effective 7/1/13: Medicare LUPA rates in effect on July 1, 2013, updated July 1 every two years.
2. Private-duty nursing and personal cares for members aged 20 or under	Retrospective cost-related. See 79.1(27)	Effective 7/1/13: Actual and allowable cost not to exceed a maximum of 133% of statewide average.
3. Administration of vaccines	Physician fee schedule	Physician fee schedule rate.
Hospices	Fee schedule as determined by Medicare	Medicare cap. (See 79.1(14) "d")
Hospitals (Critical access)	Retrospectively adjusted prospective rates. See 79.1(1) "g" and 79.1(5)	The reasonable cost of covered services provided to medical assistance recipients or the upper limits for other hospitals, whichever is greater.
Hospitals (Inpatient)	Prospective reimbursement. See 79.1(5)	Reimbursement rate in effect 6/30/13 plus 1%.
Hospitals (Outpatient)	Prospective reimbursement or hospital outpatient fee schedule. See 79.1(16) "c"	Ambulatory payment classification rate or hospital outpatient fee schedule rate in effect 6/30/13 plus 1%.
Independent laboratories	Fee schedule. See 79.1(6)	Medicare fee schedule less 5%. See 79.1(6)
Indian health service 638 facilities	1. Base rate as determined by the United States Office of Management and Budget for outpatient visits for American Indian and Alaskan native members.	1. Office of Management and Budget rate published in the Federal Register for outpatient visit rate.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
	2. Fee schedule for service provided for all other Medicaid members.	2. Fee schedule.
Infant and toddler program providers	Fee schedule	Fee schedule.
Intermediate care facilities for persons with an intellectual disability	Prospective reimbursement. See 441—82.5(249A)	Eightieth percentile of facility costs as calculated from annual cost reports.
Lead inspection agency	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Local education agency services providers	Fee schedule	Fee schedule.
Maternal health centers	Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group	Fee schedule in effect 6/30/13 plus 1%.
Nursing facilities: 1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A). The percentage of the median used to calculate the direct care excess payment allowance ceiling under 441—81.6(16) “d”(1) “1” and (2) “1” is 95% of the patient-day-weighted median. The percentage of the difference used to calculate the direct care excess payment allowance is 0%. The percentage of the median used to calculate the direct care excess payment allowance limit is 10% of the patient-day-weighted median. The percentage of the median used to calculate the non-direct care excess payment allowance ceiling under 441—81.6(16) “d”(1) “2” and (2) “2” is 96% of the patient-day-weighted median. The percentage of the difference used to calculate the non-direct care excess payment allowance limit is 0%. The percentage of the median used to calculate the non-direct care excess payment allowance limit is 8% of the patient-day-weighted median.	See 441—subrules 81.6(4) and 81.6(14) and paragraph 81.6(16) “f.” The direct care rate component limit under 441—81.6(16) “f”(1) and (2) is 120% of the patient-day-weighted median. The non-direct care rate component limit under 441—81.6(16) “f”(1) and (2) is 110% of the patient-day-weighted median.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
2. Hospital-based, Medicare-certified nursing care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A). The percentage of the median used to calculate the direct care excess payment allowance ceiling under 441—81.6(16)“d”(3)“1” is 95% of the patient-day-weighted median. The percentage of the difference used to calculate the direct care excess payment allowance is 0%. The percentage of the median used to calculate the direct care excess payment allowance limit is 10% of the patient-day-weighted median. The percentage of the median used to calculate the non-direct care excess payment allowance ceiling under 441—81.6(16)“d”(3)“2” is 96% of the patient-day-weighted median. The percentage of the difference used to calculate the non-direct care excess payment allowance limit is 0%. The percentage of the median used to calculate the non-direct care excess payment allowance limit is 8% of the patient-day-weighted median.	See 441—subrules 81.6(4) and 81.6(14) and paragraph 81.6(16)“f.” The direct care rate component limit under 441—81.6(16)“f”(3) is 120% of the patient-day-weighted median. The non-direct care rate component limit under 441—81.6(16)“f”(3) is 110% of the patient-day-weighted median.
Occupational therapists	Fee schedule. For members residing in a nursing facility, see 441—paragraph 81.6(11)“r.”	Fee schedule in effect 6/30/13 plus 1%.
Opticians	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Fee schedule in effect 6/30/13 plus 1%.
Optometrists	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Fee schedule in effect 6/30/13 plus 1%.
Orthopedic shoe dealers	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Pharmaceutical case management	Fee schedule. See 79.1(18)	Refer to 79.1(18).
Pharmacy administration of influenza vaccine to children	Physician fee schedule for immunization administration	Fee schedule in effect 6/30/13 plus 1%.
Physical therapists	Fee schedule. For members residing in a nursing facility, see 441—paragraph 81.6(11)“r.”	Fee schedule in effect 6/30/13 plus 1%.
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7)“a”	Fee schedule in effect 6/30/13 plus 1%.
Anesthesia services	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Physician-administered drugs	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Qualified primary care services furnished in 2013 or 2014	See 79.1(7)“c”	Rate provided by 79.1(7)“c”
Podiatrists	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Prescribed drugs	See 79.1(8)	Amount pursuant to 79.1(8).
Psychiatric medical institutions for children:		
1. Inpatient	Retrospective cost-related	Effective 8/1/11: Actual and allowable cost not to exceed a maximum for non-state-owned providers of 103% of patient-day-weighted average costs of non-state-owned providers located within Iowa.
2. Outpatient day treatment	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Psychologists	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Public health agencies	Fee schedule	Fee schedule rate in effect 6/30/13 plus 1%.
Rehabilitation agencies	Fee schedule. For members residing in a nursing facility, see 441—paragraph 81.6(11)“r.”	Medicaid fee schedule in effect 6/30/13 plus 1%; refer to 79.1(21).
Remedial services	Retrospective cost-related. See 79.1(23)	110% of average cost less 5%.
Rural health clinics	Retrospective cost-related. See 441—88.14(249A)	1. Prospective payment rate as required by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA 2000) or an alternative methodology allowed thereunder, as specified in “2” below. 2. 100% of reasonable cost as determined by Medicare cost reimbursement principles. 3. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve “1” or “2” above.
Screening centers	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
Speech-language pathologists	Fee schedule	Fee schedule in effect 6/30/13 plus 1%.
State-operated institutions	Retrospective cost-related	
Targeted case management providers	Fee for service with cost settlement. See 79.1(1)“d.”	Retrospective cost-settled rate.

79.1(3) Ambulatory surgical centers.

a. Payment is made for facility services on a fee schedule determined by the department and published on the department’s Web site. These fees are grouped into nine categories corresponding to the difficulty or complexity of the surgical procedure involved.

b. Services of the physician or the dentist are reimbursed on the basis of a fee schedule (see paragraph 79.1(1)“c”). This payment is made directly to the physician or dentist.

79.1(4) Durable medical equipment, prosthetic devices, medical supply dealers. Fees for durable medical appliances, prosthetic devices and medical supplies are developed from several pricing sources and are based on pricing appropriate to the date of service; prices are developed using prior calendar year price information. The average wholesale price from all available sources is averaged to determine the fee for each item. Payment for used equipment will be no more than 80 percent of the purchase allowance. For supplies, equipment, and servicing of standard wheelchairs, standard hospital beds, enteral nutrients, and enteral and parenteral supplies and equipment, the fee for payment shall be the lowest price for which the devices are widely and consistently available in a locality. Reimbursement over an established Medicaid fee schedule amount may be allowed pursuant to the criteria at 441—paragraph 78.10(5)“n.”

79.1(5) Reimbursement for hospitals.

a. *Definitions.*

“*Adolescent*” shall mean a Medicaid patient 17 years or younger.

“*Adult*” shall mean a Medicaid patient 18 years or older.

“*Average daily rate*” shall mean the hospital’s final payment rate multiplied by the DRG weight and divided by the statewide average length of stay for a DRG.

“*Base year cost report*” means the hospital’s cost report with fiscal year end on or after January 1, 2007, and before January 1, 2008, except as noted in 79.1(5)“x.” Cost reports shall be reviewed using Medicare’s cost reporting and cost reimbursement principles for those cost reporting periods.

“*Blended base amount*” shall mean the case-mix-adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix-adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which payments for inflation and capital costs are added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report shall not be used in determining the statewide average case-mix-adjusted operating cost per Medicaid discharge.

For purposes of calculating the disproportionate share rate only, a separate blended base amount shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children. This separate amount shall be determined using only the case-mix-adjusted operating cost per discharge associated with treating Medicaid patients in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

“*Blended capital costs*” shall mean case-mix-adjusted hospital-specific capital costs, plus statewide average capital costs, divided by two. The costs of hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report shall not be used in determining the statewide average capital costs.

For purposes of calculating the disproportionate share rate only, separate blended capital costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using only the capital costs related to the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

“*Capital costs*” shall mean an add-on to the blended base amount, which shall compensate for Medicaid’s portion of capital costs. Capital costs for buildings, fixtures and movable equipment are defined in the hospital’s base year cost report, are case-mix adjusted, are adjusted to reflect 80 percent of allowable costs, and are adjusted to be no greater than one standard deviation off the mean Medicaid blended capital rate.

For purposes of calculating the disproportionate share rate only, separate capital costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using only the base year cost report information related to the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

“Case-mix adjusted” shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index. For purposes of calculating the disproportionate share rate only, a separate case-mix adjustment shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using the base amount or other applicable component for the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

“Case-mix index” shall mean an arithmetical index measuring the relative average costliness of cases treated in a hospital compared to the statewide average. For purposes of calculating the disproportionate share rate only, a separate case-mix index shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using the average costliness of cases treated in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

“Children’s hospitals” shall mean hospitals with inpatients predominantly under 18 years of age. For purposes of qualifying for disproportionate share payments from the graduate medical education and disproportionate share fund, a children’s hospital is defined as a duly licensed hospital that:

1. Either provides services predominantly to children under 18 years of age or includes a distinct area or areas that provide services predominantly to children under 18 years of age, and

2. Is a voting member of the National Association of Children’s Hospitals and Related Institutions.

“Cost outlier” shall mean cases which have an extraordinarily high cost as established in 79.1(5) “f,” so as to be eligible for additional payments above and beyond the initial DRG payment.

“Critical access hospital” or *“CAH”* means a hospital licensed as a critical access hospital by the department of inspections and appeals pursuant to rule 481—51.52(135B).

“Diagnosis-related group (DRG)” shall mean a group of similar diagnoses combined based on patient age, procedure coding, comorbidity, and complications.

“Direct medical education costs” shall mean costs directly associated with the medical education of interns and residents or other medical education programs, such as a nursing education program or allied health programs, conducted in an inpatient setting, that qualify for payment as medical education costs under the Medicare program. The amount of direct medical education costs is determined from the hospital base year cost reports and is inflated and case-mix adjusted in determining the direct medical education rate. Payment for direct medical education costs shall be made from the graduate medical education and disproportionate share fund and shall not be added to the reimbursement for claims.

For purposes of calculating the disproportionate share rate only, separate direct medical education costs shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using only costs associated with the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

“Direct medical education rate” shall mean a rate calculated for a hospital reporting medical education costs on the Medicare cost report (CMS 2552). The rate is calculated using the following formula: Direct medical education costs are multiplied by inflation factors. The result is divided by the hospital’s case-mix index, then is further divided by net discharges.

For purposes of calculating the disproportionate share rate only, a separate direct medical education rate shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using the direct medical education costs, case-mix index, and net discharges of the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

“Disproportionate share payment” shall mean a payment that shall compensate for treatment of a disproportionate share of poor patients. On or after July 1, 1997, the disproportionate share payment shall be made directly from the graduate medical education and disproportionate share fund and shall not be added to the reimbursement for claims with discharge dates on or after July 1, 1997.

“Disproportionate share percentage” shall mean either (1) the product of 2½ percent multiplied by the number of standard deviations by which the hospital’s own Medicaid inpatient utilization rate

exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent. (See 79.1(5)“y”(7).)

A separate disproportionate share percentage shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital, using the Medicaid inpatient utilization rate for children under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

“*Disproportionate share rate*” shall mean the sum of the blended base amount, blended capital costs, direct medical education rate, and indirect medical education rate multiplied by the disproportionate share percentage.

“*DRG weight*” shall mean a number that reflects relative resource consumption as measured by the relative charges by hospitals for cases associated with each DRG. That is, the Iowa-specific DRG weight reflects the relative charge for treating cases classified in a particular DRG compared to the average charge for treating all Medicaid cases in all DRGs in Iowa hospitals.

“*Final payment rate*” shall mean the aggregate sum of the two components (the blended base amount and capital costs) that, when added together, form the final dollar value used to calculate each provider’s reimbursement amount when multiplied by the DRG weight. These dollar values are displayed on the rate table listing.

“*Full DRG transfer*” shall mean that a case, coded as a transfer to another hospital, shall be considered to be a normal claim for recalibration or rebasing purposes if payment is equal to or greater than the full DRG payment.

“*GME/DSH fund apportionment claim set*” means the hospital’s applicable Medicaid claims paid from July 1, 2008, through June 30, 2009. The claim set is updated in July of every third year.

“*GME/DSH fund implementation year*” means 2009.

“*Graduate medical education and disproportionate share fund*” or “*GME/DSH fund*” means a reimbursement fund developed as an adjunct reimbursement methodology to directly reimburse qualifying hospitals for the direct and indirect costs associated with the operation of graduate medical education programs and the costs associated with the treatment of a disproportionate share of poor, indigent, nonreimbursed or nominally reimbursed patients for inpatient services.

“*Indirect medical education rate*” shall mean a rate calculated as follows: The statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two, is added to the statewide average capital costs, divided by two. The resulting sum is then multiplied by the ratio of the number of full-time equivalent interns and residents serving in a Medicare-approved hospital teaching program divided by the number of beds included in hospital departments served by the interns’ and residents’ program, and is further multiplied by 1.159.

For purposes of calculating the disproportionate share rate only, a separate indirect medical education rate shall be determined for any hospital that qualifies for a disproportionate share payment only as a children’s hospital based on a distinct area or areas serving children, using the number of full-time equivalent interns and residents and the number of beds in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

“*Inlier*” shall mean those cases where the length of stay or cost of treatment falls within the actual calculated length of stay criteria, or the cost of treating a patient is within the cost boundaries of a DRG payment.

“*Long stay outlier*” shall mean cases which have an associated length of stay that is greater than the calculated length of stay parameters as defined within the length of stay calculations for that DRG. Payment is as established in 79.1(5)“f.”

“*Low-income utilization rate*” shall mean the ratio of gross billings for all Medicaid, bad debt, and charity care patients, including billings for Medicaid enrollees of managed care organizations and primary care case management organizations, to total billings for all patients. Gross billings do not include cash subsidies received by the hospital for inpatient hospital services except as provided from state or local governments.

A separate low-income utilization rate shall be determined for any hospital qualifying or seeking to qualify for a disproportionate share payment as a children’s hospital, using only billings for patients

under 18 years of age at the time of admission in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

“Medicaid claim set” means the hospital’s applicable Medicaid claims for the period of January 1, 2006, through December 31, 2007, and paid through March 31, 2008.

“Medicaid inpatient utilization rate” shall mean the number of total Medicaid days, including days for Medicaid enrollees of managed care organizations and primary care case management organizations, both in-state and out-of-state, and Iowa state indigent patient days divided by the number of total inpatient days for both in-state and out-of-state recipients. Children’s hospitals, including hospitals qualifying for disproportionate share as a children’s hospital, receive twice the percentage of inpatient hospital days attributable to Medicaid patients.

A separate Medicaid inpatient utilization rate shall be determined for any hospital qualifying or seeking to qualify for a disproportionate share payment as a children’s hospital, using only Medicaid days, Iowa state indigent patient days, and total inpatient days attributable to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

“Neonatal intensive care unit” shall mean a designated level II or level III neonatal unit.

“Net discharges” shall mean total discharges minus transfers and short stay outliers.

“Quality improvement organization” or *“QIO”* shall mean the organization that performs medical peer review of Medicaid claims, including review of validity of hospital diagnosis and procedure coding information; completeness, adequacy and quality of care; appropriateness of admission, discharge and transfer; and appropriateness of prospective payment outlier cases. These activities undertaken by the QIO may be included in a contractual relationship with the Iowa Medicaid enterprise.

“Rate table listing” shall mean a schedule of rate payments for each provider. The rate table listing is defined as the output that shows the final payment rate by hospital before being multiplied by the appropriate DRG weight.

“Rebasing” shall mean the redetermination of the blended base amount or other applicable components of the final payment rate from more recent Medicaid cost report data.

“Rebasing implementation year” means 2008 and every three years thereafter.

“Recalibration” shall mean the adjustment of all DRG weights to reflect changes in relative resource consumption.

“Short stay day outlier” shall mean cases which have an associated length of stay that is less than the calculated length of stay parameters as defined within the length of stay calculations. Payment rates are established in 79.1(5)*“f.”*

b. Determination of final payment rate amount. The hospital DRG final payment amount reflects the sum of inflation adjustments to the blended base amount plus an add-on for capital costs. This blended base amount plus the add-on is multiplied by the set of Iowa-specific DRG weights to establish a rate schedule for each hospital. Federal DRG definitions are adopted except as provided below:

(1) Substance abuse units certified pursuant to 79.1(5)*“r.”* Three sets of DRG weights are developed for DRGs concerning rehabilitation of substance abuse patients. The first set of weights is developed from charges associated with treating adults in certified substance abuse units. The second set of weights reflects charges associated with treating adolescents in mixed-age certified substance abuse units. The third set of weights reflects charges associated with treating adolescents in designated adolescent-only certified substance abuse units.

Hospitals with these units are reimbursed using the weight that reflects the age of each patient. Out-of-state hospitals may not receive reimbursement for the rehabilitation portion of substance abuse treatment.

(2) Neonatal intensive care units certified pursuant to 79.1(5)*“r.”* Three sets of weights are developed for DRGs concerning treatment of neonates. One set of weights is developed from charges associated with treating neonates in a designated level III neonatal intensive care unit for some portion of their hospitalization. The second set of weights is developed from charges associated with treating neonates in a designated level II neonatal intensive care unit for some portion of their hospitalization.

The third set of weights reflects charges associated with neonates not treated in a designated level II or level III setting. Hospitals are reimbursed using the weight that reflects the setting for neonate treatment.

(3) Psychiatric units. Rescinded IAB 8/29/07, effective 8/10/07.

c. Calculation of Iowa-specific weights and case-mix index. From the Medicaid claim set, the recalibration for rates effective October 1, 2008, will use all normal inlier claims, discard short stay outliers, discard transfers where the final payment is less than the full DRG payment, include transfers where the full payment is greater than or equal to the full DRG payment, and use only the estimated charge for the inlier portion of long stay outliers and cost outliers for weighting calculations. These are referred to as trimmed claims.

(1) Iowa-specific weights are calculated with Medicaid charge data from the Medicaid claim set using trimmed claims. Medicaid charge data for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report shall not be used in calculating Iowa-specific weights. One weight is determined for each DRG with noted exceptions. Weights are determined through the following calculations:

1. Determine the statewide geometric mean charge for all cases classified in each DRG.
2. Compute the statewide aggregate geometric mean charge for each DRG by multiplying the statewide geometric mean charge for each DRG by the total number of cases classified in that DRG.
3. Sum the statewide aggregate geometric mean charges for all DRGs and divide by the total number of cases for all DRGs to determine the weighted average charge for all DRGs.
4. Divide the statewide geometric mean charge for each DRG by the weighted average charge for all DRGs to derive the Iowa-specific weight for each DRG.
5. Normalize the weights so that the average case has a weight of one.

(2) The hospital-specific case-mix index is computed by taking each hospital's trimmed claims that match the hospital's base year cost reporting period, summing the assigned DRG weights associated with those claims and dividing by the total number of Medicaid claims associated with that specific hospital for that period. Case-mix indices are not computed for hospitals receiving reimbursement as critical access hospitals.

(3) For purposes of calculating the disproportionate share rate only, a separate hospital-specific case-mix index shall be computed for any hospital that qualifies for a disproportionate share payment only as a children's hospital. The computation shall use only claims and associated DRG weights for services provided to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

d. Calculation of blended base amount. The DRG blended base amount reflects a 50/50 blend of statewide and hospital-specific base amounts.

(1) Calculation of statewide average case-mix-adjusted cost per discharge. The statewide average cost per discharge is calculated by subtracting from the statewide total Iowa Medicaid inpatient expenditures:

1. The total calculated dollar expenditures based on hospitals' base-year cost reports for capital costs and medical education costs, and
2. The actual payments made for additional transfers, outliers, physical rehabilitation services, psychiatric services rendered on or after October 1, 2006, and indirect medical education.

Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average cost per discharge. The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation if applicable) is divided by the statewide total number of Iowa Medicaid discharges reported in the Medicaid management information system (MMIS) less an actual number of nonfull DRG transfers and short stay outliers.

(2) Calculation of hospital-specific case-mix-adjusted average cost per discharge. The hospital-specific case-mix-adjusted average cost per discharge is calculated by subtracting from the lesser of total Iowa Medicaid costs or covered reasonable charges, as determined by the hospital's base-year cost report or MMIS claims system, the actual dollar expenditures for capital costs, direct medical education costs, and the payments made for nonfull DRG transfers, outliers, physical

rehabilitation services, and psychiatric services rendered on or after October 1, 2006, if applicable. The remaining amount is case-mix adjusted, multiplied by inflation factors, and divided by the total number of Iowa Medicaid discharges from the MMIS claims system for that hospital during the applicable base year, less the nonfull DRG transfers and short stay outliers.

For purposes of calculating the disproportionate share rate only, a separate hospital-specific case-mix-adjusted average cost per discharge shall be calculated for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the costs, charges, expenditures, payments, discharges, transfers, and outliers attributable to the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

(3) Calculation of the blended statewide and hospital-specific base amount. The hospital-specific case-mix adjusted average cost per discharge is added to the case-mix adjusted statewide average cost per discharge and divided by two to arrive at a 50/50 blended base amount.

e. Add-ons to the base amount.

(1) One payment for capital costs is added on to the blended base amount.

Capital costs are included in the rate table listing and added to the blended base amount before the final payment rate schedule is set. This add-on reflects a 50/50 blend of the statewide average case-mix-adjusted capital cost per discharge and the case-mix-adjusted hospital-specific base-year capital cost per discharge attributed to Iowa Medicaid patients.

Allowable capital costs are determined by multiplying the capital amount from the base-year cost report by 80 percent. Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average case-mix-adjusted capital cost per discharge.

The 50/50 blend is calculated by adding the case-mix-adjusted hospital-specific per discharge capital cost to the statewide average case-mix-adjusted per discharge capital costs and dividing by two. Hospitals whose blended capital add-on exceeds one standard deviation off the mean Medicaid blended capital rate will be subject to a reduction in their capital add-on to equal the first standard deviation.

For purposes of calculating the disproportionate share rate only, a separate add-on to the base amount for capital costs shall be calculated for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the case-mix-adjusted hospital-specific base-year capital cost per discharge attributed to Iowa Medicaid patients in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

(2) Rescinded IAB 7/6/05, effective 7/1/05.

f. Outlier payment policy. Additional payment is made for approved cases meeting or exceeding Medicaid criteria for day and cost outliers for each DRG. Effective for claims with dates of services ending July 1, 1993, and after, 100 percent of outlier costs will be paid to facilities at the time of claim reimbursement. The QIO shall perform retrospective outlier reviews in accordance with the terms in the contract between the department and the QIO. The QIO contract is available for review at the Iowa Medicaid Enterprise, 100 Army Post Road, Des Moines, Iowa.

(1) Long stay outliers. Long stay outliers are incurred when a patient's stay exceeds the upper day limit threshold. This threshold is defined as the lesser of the arithmetically calculated average length of stay plus 23 days of care or two standard deviations above the average statewide length of stay for a given DRG, calculated geometrically. Reimbursement for long stay outliers is calculated at 60 percent of the average daily rate for the given DRG for each approved day of stay beyond the upper day limit. Payment for long stay outliers shall be paid at 100 percent of the calculated amount and made at the time the claim is originally paid.

(2) Short stay outliers. Short stay outliers are incurred when a patient's length of stay is greater than two standard deviations from the geometric mean below the average statewide length of stay for a given DRG, rounded to the next highest whole number of days. Payment for short stay outliers will be 200 percent of the average daily rate for each day the patient qualifies up to the full DRG payment. Short stay outlier claims will be subject to QIO review and payment denied for inappropriate admissions.

(3) Cost outliers. Cases qualify as cost outliers when costs of service in a given case, not including any add-on amounts for direct or indirect medical education or disproportionate share costs exceed the cost threshold. This cost threshold is determined to be the greater of two times the statewide average DRG payment for that case or the hospital's individual DRG payment for that case plus \$16,000. Costs are calculated using hospital-specific cost-to-charge ratios determined in the base-year cost reports. Additional payment for cost outliers is 80 percent of the excess between the hospital's cost for the discharge and the cost threshold established to define cost outliers. Payment of cost outlier amounts shall be paid at 100 percent of the calculated amount and made at the time the claim is paid.

Those hospitals that are notified of any outlier review initiated by the QIO must submit all requested supporting data to the QIO within 60 days of the receipt of outlier review notification, or outlier payment will be forfeited and recouped. In addition, any hospital may request a review for outlier payment by submitting documentation to the QIO within 365 days of receipt of the outlier payment. If requests are not filed within 365 days, the provider loses the right to appeal or contest that payment.

(4) Day and cost outliers. Cases qualifying as both day and cost outliers are given additional payment as cost outliers only.

g. Billing for patient transfers and readmissions.

(1) Transfers between hospitals. When a Medicaid patient is transferred the initial hospital or unit is paid 100 percent of the average daily rate of the transferring hospital's payment for each day the patient remained in that hospital or unit, up to 100 percent of the entire DRG payment. The hospital or unit that received the transferred patient receives the entire DRG payment.

(2) Substance abuse units. When a patient is discharged to or from an acute care hospital and is admitted to or from a substance abuse unit certified pursuant to paragraph 79.1(5) "r," both the discharging and admitting hospitals will receive 100 percent of the DRG payment.

(3) Physical rehabilitation hospitals or units. When a patient requiring physical rehabilitation is discharged from an acute care hospital and admitted to a rehabilitation hospital or unit certified pursuant to 79.1(5) "r," and the admission is medically appropriate, then payment for time spent in the unit is through a per diem. The discharging hospital will receive 100 percent of the DRG payment. When a patient is discharged from a certified physical rehabilitation hospital or unit and admitted to an acute care hospital, the acute care hospital will receive 100 percent of the DRG payment.

When a patient requiring physical rehabilitation is discharged from a facility other than an acute care hospital and admitted to a rehabilitation hospital or unit certified pursuant to 79.1(5) "r," and the admission is medically appropriate, then payment for time spent in the unit is based on a per diem. The other facility will receive payment in accordance with rules governing that facility. When a patient is discharged from a certified physical rehabilitation hospital or unit and admitted to a facility other than an acute care hospital, the other facility will receive payment in accordance with rules governing that facility.

(4) Psychiatric units. When a patient is discharged to or from an acute care hospital before October 1, 2006, and is admitted to or from a psychiatric unit certified pursuant to paragraph 79.1(5) "r," both the discharging and admitting hospitals will receive 100 percent of the DRG payment.

Effective October 1, 2006, when a patient requiring psychiatric care is discharged from an acute care hospital and admitted to a psychiatric unit certified pursuant to paragraph 79.1(5) "r," and the admission is medically appropriate, then payment for time spent in the unit is through a per diem. The discharging hospital will receive 100 percent of the DRG payment. When a patient is discharged from a certified psychiatric unit and is admitted to an acute care hospital, the acute care hospital will receive 100 percent of the DRG payment.

When a patient requiring psychiatric care is discharged from a facility other than an acute care hospital on or after October 1, 2006, and is admitted to a psychiatric unit certified pursuant to paragraph 79.1(5) "r," and the admission is medically appropriate, then payment for time spent in the unit is based on a per diem. The other facility will receive payment in accordance with rules governing that facility. When a patient is discharged from a certified psychiatric unit on or after October 1, 2006, and is admitted to a facility other than an acute care hospital, the other facility will receive payment in accordance with rules governing that facility.

(5) Inpatient readmissions within seven days for same condition. When an inpatient is discharged or transferred from an acute care hospital and is readmitted as an inpatient to the same hospital within seven days for the same condition, any claim for the subsequent inpatient stay shall be combined with the claim for the original inpatient stay and payment shall be under a single DRG for both stays.

h. Covered DRGs. Medicaid DRGs cover services provided in acute care general hospitals, with the exception of services provided in physical rehabilitation hospitals and units certified pursuant to paragraph 79.1(5)“r,” and services provided on or after October 1, 2006, in psychiatric units certified pursuant to paragraph 79.1(5)“r,” which are paid per diem, as specified in paragraph 79.1(5)“i.”

i. Payment for certified physical rehabilitation hospitals and units and psychiatric units. Payment for services provided by a physical rehabilitation hospital or unit certified pursuant to paragraph 79.1(5)“r” and for services provided on or after October 1, 2006, in a psychiatric unit certified pursuant to paragraph 79.1(5)“r” is prospective. The payment is based on a per diem rate calculated for each hospital by establishing a base-year per diem rate to which an annual index is applied.

(1) Per diem calculation. The base rate shall be the medical assistance per diem rate as determined by the individual hospital’s base-year cost report pursuant to paragraph 79.1(5)“a.” No recognition will be given to the professional component of the hospital-based physicians except as noted under paragraph 79.1(5)“j.”

(2) Rescinded IAB 5/12/93, effective 7/1/93.

(3) Per diem reimbursement. Hospitals shall be reimbursed the lower of actual charges or the medical assistance cost per diem rate. The determination of the applicable rate shall be based on the hospital fiscal year aggregate of actual charges and medical assistance cost per diem rate. If an overpayment exists, the hospital will refund or have the overpayment deducted from subsequent billings.

(4) Per diem recalculation. Hospital prospective reimbursement rates shall be established as of October 1, 1987, for the remainder of the applicable hospital fiscal year. Beginning July 1, 1988, all updated rates shall be established based on the state’s fiscal year.

(5) Per diem billing. The current method for submitting billing and cost reports shall be maintained. All cost reports will be subject to desk review audit and, if necessary, a field audit.

j. Services covered by DRG payments. Medicaid adopts the Medicare definition of inpatient hospital services covered by the DRG prospective payment system except as indicated herein. As a result, combined billing for physician services is eliminated unless the hospital has approval from Medicare to combine bill the physician and hospital services. Teaching hospitals having Medicare’s approval to receive reasonable cost reimbursement for physician services under 42 CFR 415.58 as amended to November 25, 1991, are eligible for combined billing status if they have the Medicare approval notice on file with Iowa Medicaid as verification. Reasonable cost settlement will be made during the year-end settlement process. Services provided by certified nurse anesthetists (CRNAs) employed by a physician are covered by the physician reimbursement. Payment for the services of CRNAs employed by the hospital are included in the hospital’s reimbursement.

The cost for hospital-based ambulance transportation that results in an inpatient admission and hospital-based ambulance services performed while the recipient is an inpatient, in addition to all other inpatient services, is covered by the DRG payment. If, during the inpatient stay at the originating hospital, it becomes necessary to transport but not transfer the patient to another hospital or provider for treatment, with the patient remaining an inpatient at the originating hospital after that treatment, the originating hospital shall bear all costs incurred by that patient for the medical treatment or the ambulance transportation between the originating hospital and the other provider. The services furnished to the patient by the other provider shall be the responsibility of the originating hospital. Reimbursement to the originating hospital for all services is under the DRG payment. (See 441—subrule 78.11(4).)

k. Inflation factors, rebasing, and recalibration.

(1) Inflation factors shall be set annually at levels that ensure payments that are consistent with efficiency, economy, and quality of care and that are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area.

(2) Base amounts shall be rebased and weights recalibrated in 2005 and every three years thereafter. Cost reports used in rebasing shall be the hospital fiscal year-end Form CMS 2552, Hospital and Healthcare Complex Cost Report, as submitted to Medicare in accordance with Medicare cost report submission time lines for the hospital fiscal year ending during the calendar year preceding the rebasing implementation year. If a hospital does not provide this cost report to the Iowa Medicaid enterprise provider cost audits and rate setting unit by May 31 of a rebasing implementation year, the most recent submitted cost report will be used with the addition of a hospital market basket index inflation factor.

(3) The graduate medical education and disproportionate share fund shall be updated as provided in subparagraphs 79.1(5)“y”(3), (6), and (9).

(4) Hospitals receiving reimbursement as critical access hospitals shall not receive inflation of base payment amounts and shall not have base amounts rebased or weights recalibrated pursuant to this paragraph.

l. Eligibility and payment. When a client is eligible for Medicaid for less than or equal to the average length of stay for that DRG, then payment equals 100 percent of the hospital’s average daily rate times the number of eligible hospital stay days up to the amount of the DRG payment. When a Medicaid client is eligible for greater than the average length of stay but less than the entire stay, then payment is treated as if the client were eligible for the entire length of stay.

Long stay outlier days are determined as the number of Medicaid eligible days beyond the outlier limits. The date of patient admission is the first date of service. Long stay outlier costs are accrued only during eligible days.

m. Payment to out-of-state hospitals. Payment made to out-of-state hospitals providing care to beneficiaries of Iowa’s Medicaid program is equal to either the Iowa statewide average blended base amount plus the statewide average capital cost add-on, multiplied by the DRG weight, or blended base and capital rates calculated by using 80 percent of the hospital’s submitted capital costs. Hospitals that submit a cost report no later than May 31 in the most recent rebasing year will receive a case-mix-adjusted blended base rate using hospital-specific, Iowa-only Medicaid data and the Iowa statewide average cost per discharge amount.

(1) Capital costs will be reimbursed at either the statewide average rate in place at the time of discharge, or the blended capital rate computed by using submitted cost report data.

(2) Hospitals that qualify for disproportionate share payment based on the definition established by their state’s Medicaid agency for the calculation of the Medicaid inpatient utilization rate will be eligible to receive disproportionate share payments according to paragraph “y.”

(3) If a hospital qualifies for reimbursement for direct medical education or indirect medical education under Medicare guidelines, it shall be reimbursed according to paragraph 79.1(5)“y.” Out-of-state hospitals do not qualify for direct medical education or indirect medical education payments pursuant to paragraph 79.1(5)“y.”

n. Preadmission, preauthorization, or inappropriate services. Medicaid adopts most Medicare QIO regulations to control increased admissions or reduced services. Exceptions to the Medicare review practice are that the QIO reviews Medicaid short stay outliers and all Medicaid patients readmitted within 31 days. Payment can be denied if either admissions or discharges are performed without medical justification as determined by the QIO. Inpatient or outpatient services which require preadmission or preprocedure approval by the QIO are updated yearly by the department and are listed in the provider manual. Preauthorization for any of these services is transmitted directly from the QIO to the Iowa Medicaid enterprise and no additional information needs to be submitted as part of the claim filing for inpatient or outpatient services. To safeguard against these and other inappropriate practices, the department through the QIO will monitor admission practices and quality of care. If an abuse of the prospective payment system is identified, payments for abusive practices may be reduced or denied. In reducing or denying payment, Medicaid adopts the Medicare QIO regulations.

o. Hospital billing. Hospitals shall normally submit claims for DRG reimbursement to the Iowa Medicaid enterprise after a patient’s discharge.

(1) Payment for outlier days or costs is determined when the claim is paid by the Iowa Medicaid enterprise, as described in paragraph “f.”

(2) When a Medicaid patient requires acute care in the same facility for a period of no less than 120 days, a request for partial payment may be made. Written requests for this interim DRG payment shall be addressed to the Iowa Medicaid Enterprise, Attention: Provider Services Unit, P.O. Box 36450, Des Moines, Iowa 50315. A request for interim payment shall include:

1. The patient's name, state identification number, and date of admission;
2. A brief summary of the case;
3. A current listing of charges; and
4. A physician's attestation that the recipient has been an inpatient for 120 days and is expected to remain in the hospital for a period of no less than 60 additional days.

A departmental representative will then contact the facility to assist the facility in filing the interim claim.

p. Determination of inpatient admission. A person is considered to be an inpatient when a formal inpatient admission occurs, when a physician intends to admit a person as an inpatient, or when a physician determines that a person being observed as an outpatient in an observation or holding bed should be admitted to the hospital as an inpatient.

(1) In cases involving outpatient observation status, the determinant of patient status is not the length of time the patient was being observed, but rather that the observation period was medically necessary for the physician to determine whether a patient should be released from the hospital or admitted to the hospital as an inpatient.

(2) Outpatient observation lasting greater than a 24-hour period will be subject to review by the Iowa Medicaid Enterprise (IME) Medical Services Unit to determine the medical necessity of each case. For those outpatient observation cases where medical necessity is not established by the IME, reimbursement shall be denied for the services found to be unnecessary for the provision of that care, such as the use of the observation room.

q. Inpatient admission after outpatient services. A patient may be admitted to the hospital as an inpatient after receiving outpatient services. If the patient is admitted as an inpatient within three days of the day outpatient services were rendered, all outpatient services related to the principal diagnosis are considered inpatient services for billing purposes. The day of formal admission as an inpatient is considered as the first day of hospital inpatient services.

r. Certification for reimbursement as a special unit or physical rehabilitation hospital. Certification for Medicaid reimbursement as a substance abuse unit under subparagraph 79.1(5)“b”(1), a neonatal intensive care unit under subparagraph 79.1(5)“b”(2), a psychiatric unit under paragraph 79.1(5)“i,” or a physical rehabilitation hospital or unit under paragraph 79.1(5)“i” shall be awarded as provided in this paragraph.

(1) Certification procedure. All hospital special units and physical rehabilitation hospitals must be certified by the Iowa Medicaid enterprise to qualify for Medicaid reimbursement as a special unit or physical rehabilitation hospital. Hospitals shall submit requests for certification to Iowa Medicaid Enterprise, Attention: Provider Services Unit, P.O. Box 36450, Des Moines, Iowa 50315, with documentation that the certification requirements are met. The provider services unit will notify the facility of any additional documentation needed after review of the submitted documentation.

Upon certification, reimbursement as a special unit or physical rehabilitation hospital shall be retroactive to the first day of the month during which the Iowa Medicaid enterprise received the request for certification. No additional retroactive payment adjustment shall be made when a hospital fails to make a timely request for certification.

(2) Certification criteria for substance abuse units. An in-state substance abuse unit may be certified for Medicaid reimbursement under 79.1(5)“b”(1) if the unit's program is licensed by the Iowa department of public health as a substance abuse treatment program in accordance with Iowa Code chapter 125 and 643—Chapter 3. In addition to documentation of the license, an in-state hospital must submit documentation of the specific substance abuse programs available at the facility with a description of their staffing, treatment standards, and population served.

An out-of-state substance abuse unit may be certified for Medicaid reimbursement under 79.1(5)“b”(1) if it is excluded from the Medicare prospective payment system as a psychiatric unit

pursuant to 42 Code of Federal Regulations, Sections 412.25 and 412.27, as amended to September 1, 1994. An out-of-state hospital requesting reimbursement as a substance abuse unit must initially submit a copy of its current Medicare prospective payment system exemption notice, unless the facility had certification for reimbursement as a substance abuse unit before July 1, 1993. All out-of-state hospitals certified for reimbursement for substance abuse units must submit copies of new Medicare prospective payment system exemption notices as they are issued, at least annually.

(3) Certification criteria for neonatal intensive care units. A neonatal intensive care unit may be certified for Medicaid reimbursement under 79.1(5) “b”(2) if it is certified as a level II or level III neonatal unit and the hospital where it is located is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association. The Iowa Medicaid enterprise shall verify the unit’s certification as a level II or level III neonatal unit in accordance with recommendations set forth by the American Academy of Pediatrics for newborn care. Neonatal units in Iowa shall be certified by the Iowa department of public health pursuant to 641—Chapter 150. Out-of-state units shall submit proof of level II or level III certification.

(4) Certification criteria for psychiatric units. A psychiatric unit may be certified for Medicaid reimbursement under paragraph 79.1(5) “i” if it is excluded from the Medicare prospective payment system as a psychiatric unit pursuant to 42 Code of Federal Regulations, Sections 412.25 and 412.27 as amended to August 1, 2002.

(5) Certification criteria for physical rehabilitation hospitals and units. A physical rehabilitation hospital or unit may be certified for Medicaid reimbursement under 79.1(5) “i” if it receives or qualifies to receive Medicare reimbursement as a rehabilitative hospital or unit pursuant to 42 Code of Federal Regulations, Sections 412.600 through 412.632 (Subpart P), as amended to January 1, 2002, and the hospital is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association.

s. *Health care access assessment inflation factor.* Effective with the implementation of the health care access assessment paid pursuant to 441—Chapter 36, Division III, a health care access assessment inflation factor shall be applied to the Medicaid DRG blended base amount as otherwise calculated pursuant to this subrule for all “participating hospitals” as defined in 441—subrule 36.10(1).

(1) Calculation of inflation factor. The health care access assessment inflation factor for participating hospitals shall be calculated by dividing the amount allowed under the Medicare inpatient upper payment limit for the fiscal year beginning July 1, 2010, by the sum of the projected expenditures for participating hospitals for the fiscal year beginning July 1, 2010, as determined by the fiscal management division of the department, and the amount allowed under the Medicare inpatient upper payment limit.

(2) Implementation date. The health care access assessment inflation factor shall not be applied until federal financial participation to match money collected from the health care access assessment pursuant to 441—Chapter 36, Division III, has been approved by the federal Centers for Medicare and Medicaid Services.

(3) End date. Application of the health care access assessment inflation factor shall terminate if the health care access assessment is terminated pursuant to rule 441—36.12(83GA,SF2388). If federal match money is unavailable for a retroactive period or the authority to collect the assessment is rescinded for a retroactive period, the department shall:

1. Recalculate Medicaid rates in effect during that period without the application of the health care access assessment inflation factor;
2. Recompute Medicaid payments due based on the recalculated Medicaid rates;
3. Recoup any previous overpayments; and
4. Determine for each hospital the amount of health care access assessment collected during that period and refund that amount to the facility.

t. *Limitations and application of limitations on payment.* Diagnosis-related group payments are subject to the upper payment limits as stated in 42 CFR 447.271 and 42 CFR 447.272 as amended to September 5, 2001.

(1) The department may not pay a provider more for inpatient hospital services under Medicaid than the provider's customary charges to the general public for the services. This limit is applied in the aggregate during the cost settlement process at the end of the hospital's fiscal year.

(2) Aggregate payments to hospitals and state-operated hospitals may not exceed the amount that can reasonably be estimated would have been paid for those services under Medicare payment principles. This limit is applied to aggregate Medicaid payments at the end of the state's fiscal year.

u. State-owned teaching hospital disproportionate share payment. In addition to payments from the graduate medical education and disproportionate share fund made pursuant to paragraph 79.1(5) "y," payment shall be made to Iowa hospitals qualifying for the Iowa state-owned teaching hospital disproportionate share fund. Interim monthly payments based on estimated allowable costs will be paid to qualifying hospitals under this paragraph.

(1) Qualifying criteria. A hospital qualifies for Iowa state-owned teaching hospital disproportionate share payments if it qualifies for disproportionate share payments pursuant to paragraph 79.1(5) "y" and is an Iowa state-owned hospital with more than 500 beds and eight or more distinct residency specialty or subspecialty programs recognized by the American College of Graduate Medical Education.

(2) Allocation to fund. The total amount of funding that is allocated on July 1 of each year to the Iowa state-owned teaching hospital disproportionate share fund is \$26,633,430.

(3) Amount of payment. The total amount of disproportionate share payments from the graduate medical education and disproportionate share fund and from the Iowa state-owned teaching hospital disproportionate share fund shall not exceed the amount of the state's allotment under Public Law 102-234. In addition, the total amount of all disproportionate share payments shall not exceed the hospital-specific disproportionate share limits under Public Law 103-666.

(4) Final disproportionate share adjustment. The department's total year-end disproportionate share obligations to a qualifying hospital will be calculated following completion of the desk review or audit of CMS 2552-96, Hospital and Healthcare Complex Cost Report.

v. Non-state-owned teaching hospital disproportionate share payment. In addition to payments from the graduate medical education and disproportionate share fund made pursuant to paragraph 79.1(5) "y," payment shall be made to Iowa hospitals qualifying for Iowa non-state-government-owned acute care teaching hospital disproportionate share payments. Interim monthly payments based on estimated allowable costs will be paid to qualifying hospitals under this paragraph.

(1) Qualifying criteria. A hospital qualifies for the Iowa non-state-government-owned acute care teaching hospital disproportionate share payments if it qualifies for disproportionate share payments pursuant to paragraph 79.1(5) "y" and is an Iowa non-state-government-owned acute care teaching hospital located in a county with a population over 350,000.

(2) Amount of payment. The total amount of disproportionate share payments pursuant to paragraph 79.1(5) "y" and the Iowa non-state-government-owned acute care teaching hospital disproportionate share payments shall not exceed the amount of the state's allotment under Public Law 102-234. In addition, the total amount of all disproportionate share payments shall not exceed the hospital-specific disproportionate share limits under Public Law 103-666.

(3) Final disproportionate share adjustment. The department's total year-end disproportionate share obligations to a qualifying hospital will be calculated following completion of the desk review or audit of CMS 2552-96, Hospital and Healthcare Complex Cost Report. The department's total year-end disproportionate share obligation shall not exceed the difference between the following:

1. The annual amount appropriated to the IowaCare account for distribution to publicly owned acute care teaching hospitals located in a county with a population over 350,000; and
2. The actual IowaCare expansion population claims submitted and paid by the Iowa Medicaid enterprise to qualifying hospitals.

w. Rate adjustments for hospital mergers. When one or more hospitals merge to form a distinctly different legal entity, the base rate plus applicable add-ons will be revised to reflect this new entity. Financial information from the original cost reports and original rate calculations will be added together and averaged to form the new rate for that entity.

x. For cost reporting periods beginning on or after July 1, 1993, reportable Medicaid administrative and general expenses are allowable only to the extent that they are defined as allowable using Medicare Reimbursement Principles or Health Insurance Reimbursement Manual 15 (HIM-15). Appropriate, reportable costs are those that meet the Medicare (or HIM-15) principles, are reasonable, and are directly related to patient care. In instances where costs are not directly related to patient care or are not in accord with Medicare Principles of Reimbursement, inclusion of those costs in the cost report would not be appropriate. Examples of administrative and general costs that must be related to patient care to be included as a reportable cost in the report are:

- (1) Advertising.
- (2) Promotional items.
- (3) Feasibility studies.
- (4) Administrative travel and entertainment.
- (5) Dues, subscriptions, or membership costs.
- (6) Contributions made to other organizations.
- (7) Home office costs.
- (8) Public relations items.
- (9) Any patient convenience items.
- (10) Management fees for administrative services.
- (11) Luxury employee benefits (i.e., country club dues).
- (12) Motor vehicles for other than patient care.
- (13) Reorganization costs.

y. *Graduate medical education and disproportionate share fund.* Payment shall be made to hospitals qualifying for direct medical education, indirect medical education, or disproportionate share payments directly from the graduate medical education and disproportionate share fund. The requirements to receive payments from the fund, the amounts allocated to the fund, and the methodology used to determine the distribution amounts from the fund are as follows:

(1) Qualifying for direct medical education. Iowa hospitals qualify for direct medical education payments if direct medical education costs that qualify for payment as medical education costs under the Medicare program are contained in the hospital's base year cost report and in the most recent cost report submitted before the start of the state fiscal year for which payments are being made. Out-of-state hospitals do not qualify for direct medical education payments.

(2) Allocation to fund for direct medical education. The total state fiscal year annual amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to inpatient services is \$7,594,294.03. If a hospital fails to qualify for direct medical education payments from the fund because the hospital does not report direct medical education costs that qualify for payment as medical education costs under the Medicare program in the most recent cost report submitted before the start of the state fiscal year for which payments are being made, the amount of money that would have been paid to that hospital shall be removed from the fund.

(3) Distribution to qualifying hospitals for direct medical education. Distribution of the amount in the fund for direct medical education shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for direct medical education, the following formula is used:

1. Multiply the total of all DRG weights for claims paid from the GME/DSH fund apportionment claim set for each hospital reporting direct medical education costs that qualify for payment as medical education costs under the Medicare program in the hospital's base year cost report by each hospital's direct medical education rate to obtain a dollar value.

2. Sum the dollar values for each hospital, then divide each hospital's dollar value by the total dollar value, resulting in a percentage.

3. Multiply each hospital's percentage by the amount allocated for direct medical education to determine the payment to each hospital.

(4) Qualifying for indirect medical education. Iowa hospitals qualify for indirect medical education payments from the fund when they receive a direct medical education payment from Iowa Medicaid and qualify for indirect medical education payments from Medicare. Qualification for indirect medical

education payments is determined without regard to the individual components of the specific hospital's teaching program, state ownership, or bed size. Out-of-state hospitals do not qualify for indirect medical education payments.

(5) Allocation to fund for indirect medical education. The total state fiscal year annual amount of funding that is allocated to the graduate medical education and disproportionate share fund for indirect medical education related to inpatient services is \$13,450,285.14. If a hospital fails to qualify for indirect medical education payments from the fund because the hospital does not report direct medical education costs that qualify for payment as medical education costs under the Medicare program in the most recent cost report submitted before the start of the state fiscal year for which payments are being made, the amount of money that would have been paid to that hospital shall be removed from the fund.

(6) Distribution to qualifying hospitals for indirect medical education. Distribution of the amount in the fund for indirect medical education shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for indirect medical education, the following formula is used:

1. Multiply the total of all DRG weights for claims paid from the GME/DSH fund apportionment claim set for each hospital reporting direct medical education costs that qualify for payment as medical education costs under the Medicare program in the hospital's base year cost report by each hospital's indirect medical education rate to obtain a dollar value.

2. Sum the dollar values for each hospital, then divide each hospital's dollar value by the total dollar value, resulting in a percentage.

3. Multiply each hospital's percentage by the amount allocated for indirect medical education to determine the payment to each hospital.

(7) Qualifying for disproportionate share. For months beginning with July 2002, hospitals qualify for disproportionate share payments from the fund when the hospital's low-income utilization rate exceeds 25 percent, when the hospital's Medicaid inpatient utilization rate exceeds one standard deviation from the statewide average Medicaid utilization rate, or when the hospital qualifies as a children's hospital under subparagraph (10). Information contained in the hospital's base year cost report is used to determine the hospital's low-income utilization rate and the hospital's Medicaid inpatient utilization rate.

1. For those hospitals that qualify for disproportionate share under both the low-income utilization rate definition and the Medicaid inpatient utilization rate definition, the disproportionate share percentage shall be the greater of (1) the product of 2½ percent multiplied by the number of standard deviations by which the hospital's own Medicaid inpatient utilization rate exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent.

2. For those hospitals that qualify for disproportionate share under the low-income utilization rate definition, but do not qualify under the Medicaid inpatient utilization rate definition, the disproportionate share percentage shall be 2½ percent.

3. For those hospitals that qualify for disproportionate share under the Medicaid inpatient utilization rate definition, but do not qualify under the low-income utilization rate definition, the disproportionate share percentage shall be the product of 2½ percent multiplied by the number of standard deviations by which the hospital's own Medicaid inpatient utilization rate exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals.

4. For those hospitals that qualify for disproportionate share as a children's hospital, the disproportionate share percentage shall be the greater of (1) the product of 2½ percent multiplied by the number of standard deviations by which the Medicaid inpatient utilization rate for children under 18 years of age at the time of admission in all areas of the hospital where services are provided predominantly to children under 18 years of age exceeds the statewide mean Medicaid inpatient utilization rate for all hospitals, or (2) 2½ percent.

5. Additionally, a qualifying hospital other than a children's hospital must also have at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to Medicaid-eligible persons who are in need of obstetric services. In the case of a hospital located in a rural area as defined in Section 1886 of the Social Security Act, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

6. Out-of-state hospitals serving Iowa Medicaid patients qualify for disproportionate share payments from the fund based on their state Medicaid agency's calculation of the Medicaid inpatient utilization rate. The disproportionate share percentage is calculated using the number of standard deviations by which the hospital's own state Medicaid inpatient utilization rate exceeds the hospital's own statewide mean Medicaid inpatient utilization rate.

7. Hospitals qualify for disproportionate share payments from the fund without regard to the facility's status as a teaching facility or bed size.

8. Hospitals receiving reimbursement as critical access hospitals shall not qualify for disproportionate share payments from the fund.

(8) Allocation to fund for disproportionate share. The total state fiscal year annual amount of funding that is allocated to the graduate medical education and disproportionate share fund for disproportionate share payments is \$6,959,868.59. If a hospital fails to qualify for disproportionate share payments from the fund due to closure or for any other reason, the amount of money that would have been paid to that hospital shall be removed from the fund.

(9) Distribution to qualifying hospitals for disproportionate share. Distribution of the amount in the fund for disproportionate share shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for disproportionate share, the following formula is used:

1. Multiply the total of all DRG weights for claims paid from the GME/DSH fund apportionment claim set for each hospital that met the qualifications during the fiscal year used to determine the hospital's low-income utilization rate and Medicaid utilization rate (or for children's hospitals, during the preceding state fiscal year) by each hospital's disproportionate share rate to obtain a dollar value. For any hospital that qualifies for a disproportionate share payment only as a children's hospital, only the DRG weights for claims paid for services rendered to patients under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age shall be used in this calculation.

2. Sum the dollar values for each hospital, then divide each hospital's dollar value by the total dollar value, resulting in a percentage.

3. Multiply each hospital's percentage by the amount allocated for disproportionate share to determine the payment to each hospital.

In compliance with Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (Public Law 102-234) and 1992 Iowa Acts, chapter 1246, section 13, the total of disproportionate share payments from the GME/DSH fund and supplemental disproportionate share of payments pursuant to paragraph 79.1(5) "u" or 79.1(5) "v" cannot exceed the amount of the federal cap under Public Law 102-234.

(10) Qualifying for disproportionate share as a children's hospital. A licensed hospital qualifies for disproportionate share payments as a children's hospital if the hospital provides services predominantly to children under 18 years of age or includes a distinct area or areas providing services predominantly to children under 18 years of age, is a voting member of the National Association of Children's Hospitals and Related Institutions, and has Medicaid utilization and low-income utilization rates of 1 percent or greater for children under 18 years of age at the time of admission in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.

A hospital wishing to qualify for disproportionate share payments as a children's hospital for any state fiscal year beginning on or after July 1, 2002, must provide the following information to the Iowa Medicaid enterprise provider cost audits and rate setting unit within 20 business days of a request by the department:

1. Base year cost reports.
2. Medicaid claims data for children under the age of 18 at the time of admission to the hospital in all distinct areas of the hospital where services are provided predominantly to children under 18 years of age.
3. Other information needed to determine a disproportionate share rate encompassing the periods used to determine the disproportionate share rate and distribution amounts.
- z. *Final settlement for state-owned teaching hospital.*

(1) Effective July 1, 2010, total annual payments to an Iowa state-owned hospital for inpatient and outpatient hospital services shall equal 100 percent of allowable medical assistance program costs, not to exceed the sum of the following:

1. Payments for inpatient hospital services calculated in accordance with subrule 79.1(5), plus
2. Payment for outpatient hospital services calculated in accordance with subrule 79.1(16), plus
3. \$9,900,000.

(2) One-twelfth of the \$9,900,000 increase in reimbursement shall be distributed to the hospital on a monthly basis.

(3) The Iowa Medicaid enterprise shall complete a final settlement based on the hospital's Medicare cost report. If the aggregate payments are less than the hospital's actual medical assistance program costs, no additional payment shall be made.

(4) If the sum of the inpatient hospital service payments plus outpatient hospital service payments plus the \$9,900,000 exceeds 100 percent of allowable inpatient and outpatient costs, the department shall request and collect from the hospital the amount by which payments exceed actual medical assistance program costs.

aa. Retrospective adjustment for critical access hospitals. Payments to critical access hospitals pursuant to paragraphs 79.1(5) "a" to "z" are subject to a retrospective adjustment equal to the difference between the reasonable costs of covered services provided to eligible fee-for-service Medicaid members (excluding members in managed care), based on the hospital's annual cost reports and Medicare cost principles, and the Medicaid fee-for-service reimbursement received pursuant to paragraphs 79.1(5) "a" to "z." Amounts paid before adjustment that exceed reasonable costs shall be recovered by the department.

(1) The base rate upon which the DRG payment is built shall be changed after any retrospective adjustment to reflect, as accurately as is possible, the reasonable costs of providing the covered service to eligible fee-for-service Medicaid members for the coming year using the most recent utilization as submitted to the Iowa Medicaid enterprise provider cost audit and rate setting unit and Medicare cost principles.

(2) Once a hospital begins receiving reimbursement as a critical access hospital, the prospective DRG base rate is not subject to inflation factors, rebasing, or recalibration as provided in paragraph 79.1(5) "k."

ab. Nonpayment for preventable conditions. Preventable conditions identified pursuant to this rule that develop during inpatient hospital treatment shall not be considered in determining reimbursement for such treatment.

(1) Coding. All diagnoses included on an inpatient hospital claim must include one of the following codes indicating whether the condition was present or developing at the time of the order for inpatient admission:

Present on Admission (POA) Indicator Codes

Code Explanation

- | | |
|---|--|
| Y | The condition was present or developing at the time of the order for inpatient admission. |
| N | The condition was not present or developing at the time of the order for inpatient admission. |
| U | Documentation is insufficient to determine whether the condition was present or developing at the time of the order for inpatient admission. |
| W | Clinically undetermined. The provider is clinically unable to determine whether or not the condition was present or developing at the time of the order for inpatient admission. |

(2) Payment processing. Claims will be processed according to the DRG methodology without consideration of any diagnosis identified by the Secretary of the United States Department of Health and Human Services pursuant to Section 1886(d)(4)(D)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(D)(iv)) if the condition was not present or developing at the time of the order for inpatient admission.

ac. Rural hospital disproportionate share payment. In addition to payments from the graduate medical education and disproportionate share fund made pursuant to paragraph 79.1(5)“y,” payment shall be made to qualifying Iowa hospitals that elect to participate in rural hospital disproportionate share payments. Interim monthly payments will be made based on the amount of state share that is transferred to the department.

(1) Qualifying criteria. A hospital that qualifies for disproportionate share payments pursuant to paragraph 79.1(5)“y” and that is a rural prospective payment hospital not designated as a critical access hospital qualifies for rural hospital disproportionate share payments.

(2) Source of nonfederal share. The required nonfederal share shall be funds generated from tax levy collections of the county or city in which the hospital is located, and is subject to the conditions specified in this subparagraph and applicable federal law and regulations.

1. The nonfederal share funds shall be distributed to the department prior to the issuance of any disproportionate share payment to a qualifying hospital.

2. The city or county providing the nonfederal share funds shall annually document and certify that the funds provided as the nonfederal share were generated from tax proceeds, and not from any other source including federal grants or another federal funding source.

3. The applicable federal matching rate for the fiscal year shall apply.

(3) Amount of payment. The total amount of disproportionate share payments made pursuant to paragraph 79.1(5)“y” and the rural hospital disproportionate share payments shall not exceed the amount of the state’s allotment under Public Law 102-234. In addition, the total amount of all disproportionate share payments shall not exceed the hospital-specific disproportionate share limits under Public Law 103-666.

(4) Final disproportionate share adjustment. Qualifying hospitals shall annually provide a disproportionate share hospital survey within the time frames specified by the department, for the purpose of calculating the hospital-specific disproportionate share limits under Public Law 103-666.

79.1(6) Independent laboratories. The maximum payment for clinical diagnostic laboratory tests performed by an independent laboratory will be the areawide fee schedule established by the Centers for Medicare and Medicaid Services (CMS). The fee schedule is based on the definition of laboratory procedures from the Physician’s Current Procedural Terminology (CPT) published by the American Medical Association. The fee schedules are adjusted annually by CMS to reflect changes in the Consumer Price Index for All Urban Consumers.

79.1(7) Physicians.

a. Fee schedule. The fee schedule is based on the definitions of medical and surgical procedures given in the most recent edition of Physician’s Current Procedural Terminology (CPT). Refer to 441—paragraph 78.1(2)“e” for the guidelines for immunization replacement.

b. Payment reduction for services rendered in facility settings. Rescinded IAB 10/30/13, effective 1/1/14.

c. Payment for primary care services furnished in 2013 or 2014. To the extent required by 42 U.S.C. § 1396a(a)(13)(C), primary care services furnished in calendar years 2013 or 2014 by a qualified primary care physician or under the supervision of a qualified primary care physician shall be paid as provided pursuant to this paragraph (79.1(7)“c”).

(1) Primary care services eligible for payment pursuant to this paragraph (79.1(7)“c”) include:

1. Evaluation and management (E & M) services covered by Iowa Medicaid and designated in the healthcare common procedure coding system (HCPCS) as codes 99201 through 99499, or their successor codes; and

2. Vaccine administration services covered by Iowa Medicaid and designated in the healthcare common procedure coding system (HCPCS) as codes 90460, 90461, 90471, 90472, 90473 and 90474, or their successor codes.

(2) For purposes of this paragraph (79.1(7)“c”), a qualified primary care physician is a physician who:

1. Is certified by the American Board of Medical Specialties (ABMS), the American Board of Physician Specialties (ABPS) or the American Osteopathic Association (AOA) with a specialty

designation of family medicine, general internal medicine, or pediatric medicine or with a subspecialty designation recognized by the certifying organization as a subspecialty of family medicine, general internal medicine, or pediatric medicine; or

2. Has furnished primary care services eligible for payment pursuant to this paragraph (79.1(7)“c”) equal to at least 60 percent of the Iowa Medicaid services for which the qualified primary care physician has submitted claims during the most recently completed calendar year or, for newly eligible physicians, the prior month (excluding claims not paid and claims for which Medicare is the primary payer).

(3) For payment to be made under this paragraph (79.1(7)“c”), the qualified primary care physician must have certified that the physician is a qualified primary care physician by submitting Form 470-5138, Iowa Medicaid Primary Care Physician Certification and Attestation for Primary Care Rate Increase, prior to the date of service or by April 1, 2013, for services rendered January 1, 2013, through April 1, 2013.

(4) Primary care services eligible for payment pursuant to this rule shall be paid at the greater of:

1. The otherwise applicable Iowa Medicaid rate;
2. The applicable rate under Medicare Part B, in effect for services rendered on the first day of the calendar year;

3. The rate that would be applicable under Medicare Part B, in effect for services rendered on the first day of the calendar year, if the conversion factor under 42 U.S.C. § 1395w-4(d) were the conversion factor for 2009; or

4. If there is no applicable rate under Medicare Part B, the rate specified in a fee schedule established and announced by the federal Centers for Medicare and Medicaid Services, pursuant to 42 CFR § 447.405(A)(1).

(5) Notwithstanding the foregoing provisions of this paragraph (79.1(7)“c”), payment for the administration of vaccines provided under the vaccines for children program in calendar years 2013 or 2014 shall be limited to the lesser of:

1. The regional maximum administration fee under the vaccines for children program; or
2. The applicable Medicare fee schedule rate for HCPCS code 90460 (or, if higher, the Medicare fee schedule rate for HCPCS code 90460 that would apply if the conversion factor under 42 U.S.C. § 1395w-4(d) were the conversion factor for 2009).

79.1(8) Drugs. The amount of payment shall be based on several factors, subject to the upper limits in 42 CFR 447.500 to 447.520 as amended to May 16, 2012. The Medicaid program relies on information published by Medi-Span to classify drugs as brand-name or generic. Specialty drugs include biological drugs, blood-derived products, complex molecules, and select oral, injectable, and infused medications identified by the department and published on the specialty drug list.

a. Until February 1, 2013, or federal approval of the reimbursement methodology provided in paragraph 79.1(8)“c,” whichever is later, reimbursement for covered generic prescription drugs shall be the lowest of the following, as of the date of dispensing:

- (1) The estimated acquisition cost, defined:
 1. For covered nonspecialty generic prescription drugs, as the average wholesale price as published by Medi-Span less 12 percent, plus the professional dispensing fee specified in paragraph 79.1(8)“i”;

2. For covered specialty generic prescription drugs, as the average wholesale price as published by Medi-Span less 17 percent, plus the professional dispensing fee specified in paragraph 79.1(8)“i.”

- (2) The maximum allowable cost (MAC), defined as the upper limit for multiple source drugs established in accordance with the methodology of the Centers for Medicare and Medicaid Services as described in 42 CFR 447.514, plus the professional dispensing fee specified in paragraph 79.1(8)“i.”

- (3) The state maximum allowable cost (SMAC), defined as the average wholesale acquisition cost for a generic drug (the average price pharmacies pay to obtain the generic drug as evidenced by purchase records) adjusted by a multiplier of 1.2, plus the professional dispensing fee specified in paragraph 79.1(8)“i.”

- (4) The submitted charge, representing the provider’s usual and customary charge for the drug.

b. Until February 1, 2013, or federal approval of the reimbursement methodology provided in paragraph 79.1(8)“*d*,” whichever is later, reimbursement for covered brand-name prescription drugs shall be the lower of the following, as of the date of dispensing:

(1) The estimated acquisition cost, defined:

1. For covered nonspecialty brand-name prescription drugs, as the average wholesale price as published by Medi-Span less 12 percent, plus the professional dispensing fee specified in paragraph 79.1(8)“*i*”; or

2. For covered specialty brand-name prescription drugs, as the average wholesale price as published by Medi-Span less 17 percent, plus the professional dispensing fee specified in paragraph 79.1(8)“*i*.”

(2) The submitted charge, representing the provider’s usual and customary charge for the drug.

c. Effective February 1, 2013, or upon federal approval, whichever is later, reimbursement for covered generic prescription drugs and for covered nonprescription drugs shall be the lowest of the following, as of the date of dispensing:

(1) The average actual acquisition cost (AAC), determined pursuant to paragraph 79.1(8)“*k*,” plus the professional dispensing fee determined pursuant to paragraph 79.1(8)“*j*.”

(2) The maximum allowable cost (MAC), defined as the specific upper limit for multiple source drugs established in accordance with the methodology of the Centers for Medicare and Medicaid Services as described in 42 CFR 447.514, plus the professional dispensing fee determined pursuant to paragraph 79.1(8)“*j*.”

(3) The submitted charge, representing the provider’s usual and customary charge for the drug.

d. Effective February 1, 2013, or upon federal approval, whichever is later, reimbursement for covered brand-name prescription drugs shall be the lower of the following, as of the date of dispensing:

(1) The average actual acquisition cost (AAC), determined pursuant to paragraph 79.1(8)“*k*,” plus the professional dispensing fee determined pursuant to paragraph 79.1(8)“*j*.”

(2) The submitted charge, representing the provider’s usual and customary charge for the drug.

e. No payment shall be made for sales tax.

f. All hospitals that wish to administer vaccines which are available through the vaccines for children program to Medicaid members shall enroll in the vaccines for children program. In lieu of payment, vaccines available through the vaccines for children program shall be accessed from the department of public health for Medicaid members. Hospitals receive reimbursement for the administration of vaccines to Medicaid members through the DRG reimbursement for inpatients and APC reimbursement for outpatients.

g. Until February 1, 2013, or federal approval of the reimbursement methodology provided in paragraph 79.1(8)“*c*,” whichever is later, the basis of payment for nonprescription drugs shall be the same as specified in paragraph 79.1(8)“*a*” except that the department shall establish a maximum allowable reimbursable cost for these drugs using the average wholesale prices of the chemically equivalent products available. The department shall set the maximum allowable reimbursable cost at the median of those average wholesale prices. No exceptions for higher reimbursement will be approved.

h. An additional reimbursement amount of one cent per dose shall be added to the allowable cost of a prescription for an oral solid if the drug is dispensed to a patient in a nursing home in unit dose packaging prepared by the pharmacist.

i. Rescinded IAB 6/11/14, effective 8/1/14.

j. The professional dispensing fee shall be a fee schedule amount determined by the department based on a survey of Iowa Medicaid participating pharmacy providers’ costs of dispensing drugs to Medicaid beneficiaries conducted every two years beginning in SFY 2014-2015.

k. For purposes of this rule, average actual acquisition cost (AAC) is defined as retail pharmacies’ average prices paid to acquire drug products. Average AAC shall be determined by the department based on a survey of invoice prices paid by Iowa Medicaid retail pharmacies. Surveys shall be conducted at least once every six months, or more often at the department’s discretion. The average AAC shall be calculated as a statistical mean based on one reported cost per drug per pharmacy. The average AAC determined by the department shall be published on the Iowa Medicaid enterprise Web site. If no

current average AAC has been determined for a drug, the wholesale acquisition cost (WAC) published by Medi-Span shall be used as the average AAC.

l. For purposes of this subrule, “equivalent products” shall be those that meet therapeutic equivalent standards as published in the federal Food and Drug Administration document, “Approved Prescription Drug Products With Therapeutic Equivalence Evaluations.”

m. Savings in Medicaid reimbursements attributable to the SMAC shall be used to pay costs associated with determination of the SMAC, before reversion to Medicaid.

n. Payment to physicians for physician-administered drugs billed with healthcare common procedure coding system (HCPCS) Level II “J” codes, as a physician service, shall be pursuant to physician payment policy under subrule 79.1(2).

79.1(9) HCBS consumer choices financial management.

a. Monthly allocation. A financial management service provider shall receive a monthly fee as established in subrule 79.1(2) for each consumer electing to work with that provider under the HCBS consumer choices option. The financial management service provider shall also receive monthly the consumer’s individual budget amount as determined under 441—paragraph 78.34(13) “b,” 78.37(16) “b,” 78.38(9) “b,” 78.41(15) “b,” 78.43(15) “b,” or 78.46(6) “b.”

b. Cost settlement. The financial management service shall pay from the monthly allocated individual budget amount for independent support broker service, self-directed personal care services, individual-directed goods and services, and self-directed community supports and employment as authorized by the consumer. On a quarterly basis during the federal fiscal year, the department shall perform a cost settlement. The cost settlement represents the difference between the amount received for the allocated individual budget and the amount actually utilized.

c. Start-up grants. A qualifying financial management service provider may be reimbursed up to \$10,000 for the costs associated for starting the service.

(1) Start-up reimbursement shall be issued as long as funds for this purpose are available from the Robert Wood Johnson Foundation or until September 30, 2007.

(2) Funds will not be distributed until the provider meets all of the following criteria:

1. The provider shall meet the requirements to be certified to participate in an HCBS waiver program as set forth in 441—subrule 77.30(13), 77.33(16), 77.34(9), 77.37(28), 77.39(26), or 77.41(7), including successful completion of a readiness review as approved by the department.

2. The provider shall enter into an agreement with the department to provide statewide coverage for not less than one year from the date that the funds are distributed.

3. The provider shall submit to the department for approval a budget identifying the costs associated with starting financial management service.

(3) If the provider fails to continue to meet these qualifications after the funds have been distributed, the department may recoup all or part of the funds paid to the provider.

79.1(10) Prohibition against reassignment of claims. No payment under the medical assistance program for any care or service provided to a patient by any health care provider shall be made to anyone other than the providers. However with respect to physicians, dentists or other individual practitioners direct payment may be made to the employer of the practitioner if the practitioner is required as a condition of employment to turn over fees to the employer; or where the care or service was provided in a facility, to the facility in which the care or service was provided if there is a contractual arrangement between the practitioner and the facility whereby the facility submits the claim for reimbursement; or to a foundation, plan or similar organization including a health maintenance organization which furnishes health care through an organized health care delivery system if there is a contractual agreement between organization and the person furnishing the service under which the organization bills or receives payment for the person’s services. Payment may be made in accordance with an assignment from the provider to a government agency or an assignment made pursuant to a court order. Payment may be made to a business agent, such as a billing service or accounting firm, which renders statements and receives payment in the name of the provider when the agent’s compensation for this service is (1) reasonably related to the cost or processing the billing; (2) not related on a percentage or other basis

to the dollar amounts to be billed or collected; and (3) not dependent upon the actual collection of payment. Nothing in this rule shall preclude making payment to the estate of a deceased practitioner.

79.1(11) *Prohibition against factoring.* Payment under the medical assistance program for any care or service furnished to an individual by providers as specified in 79.1(1) shall not be made to or through a factor either directly or by virtue of power of attorney given by the provider to the factor. A factor is defined as an organization, collection agency, or service bureau which, or an individual who, advances money to a provider for accounts receivable which have been assigned or sold or otherwise transferred including transfer through the use of power of attorney to the organization or individual for an added fee or reduction of a portion of the accounts receivable. The term factor does not include business representatives such as billing agents or accounting firms which render statements and receive payments in the name of the individual provider provided that the compensation of the business representative for the service is reasonably related to the cost of processing the billings and is not related on a percentage or other basis to the dollar amounts to be billed or collected.

79.1(12) *Reasonable charges for services, supplies, and equipment.* For selected medical services, supplies, and equipment, including equipment servicing, which in the judgment of the Secretary of the Department of Health and Human Services generally do not vary significantly in quality from one provider to another, the upper limits for payments shall be the lowest charges for which the devices are widely and consistently available in a locality. For those selected services and items furnished under Part B of Medicare and Medicaid, the upper limits shall be the lowest charge levels recognized under Medicare. For those selected services and items furnished only under Medicaid, the upper limits shall be the lowest charge levels determined by the department according to the Medicare reimbursement method.

a. For any noninstitutional item or service furnished under both Medicare and Medicaid, the department shall pay no more than the reasonable charge established for that item or service by the Part B Medicare carrier serving part or all of Iowa. Noninstitutional services do not include practitioner's services, such as physicians, pharmacies, or out-patient hospital services.

b. For all other noninstitutional items or services furnished only under Medicaid, the department shall pay no more than the customary charge for a provider or the prevailing charges in the locality for comparable items or services under comparable circumstances, whichever is lower.

79.1(13) *Copayment by member.* A copayment in the amount specified shall be charged to members for the following covered services:

a. The member shall pay a copayment for each covered prescription or refill of any covered drug as follows:

(1) One dollar for generic drugs and preferred brand-name drugs. Any brand-name drug that is not subject to prior approval based on nonpreferred status on the preferred drug list published by the department pursuant to Iowa Code section 249A.20A shall be treated as a preferred brand-name drug.

(2) Rescinded IAB 7/6/05, effective 7/1/05.

(3) One dollar for nonpreferred brand-name drugs for which the cost to the state is less than \$25.

(4) Two dollars for nonpreferred brand-name drugs for which the cost to the state is \$25.01 to \$50.

(5) Three dollars for nonpreferred brand-name drugs for which the cost to the state is \$50.01 or more.

(6) For the purpose of this paragraph, the cost to the state is determined without regard to federal financial participation in the Medicaid program or to any rebates received.

b. The member shall pay \$1 copayment for total covered service rendered on a given date for podiatrists' services, chiropractors' services, and services of independently practicing physical therapists.

c. The member shall pay \$2 copayment for total covered services rendered on a given date for medical equipment and appliances, prosthetic devices and medical supplies as defined in 441—78.10(249A), orthopedic shoes, services of audiologists, services of hearing aid dealers except the hearing aid, services of optometrists, opticians, rehabilitation agencies, and psychologists, and ambulance services.

d. The member shall pay \$3 copayment for:

(1) Total covered service rendered on a given date for dental services and hearing aids.

(2) All covered services rendered in a physician office visit on a given date. For the purposes of this subparagraph, "physician" means either a doctor of allopathic medicine (M.D.) or a doctor of osteopathic medicine (D.O.), as defined under rule 441—77.1(249A).

e. Copayment charges are not applicable to persons under age 21.

f. Copayment charges are not applicable to family planning services or supplies.

g. Copayment charges are not applicable for a member receiving inpatient care in a hospital, nursing facility, state mental health institution, or other medical institution if the person is required, as a condition of receiving services in the institution, to spend for costs of necessary medical care all but a minimal amount of income for personal needs.

h. The member shall pay \$1 for each federal Medicare Part B crossover claim submitted to the Medicaid program when the services provided have a Medicaid copayment as set forth above.

i. Copayment charges are not applicable to services furnished pregnant women.

j. All providers are prohibited from offering or providing copayment related discounts, rebates, or similar incentives for the purpose of soliciting the patronage of Medicaid members.

k. Copayment charges are not applicable for emergency services. Emergency services are defined as services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain), that the absence of immediate medical attention could reasonably be expected to result in:

- (1) Placing the patient's health in serious jeopardy,
- (2) Serious impairment to bodily functions, or
- (3) Serious dysfunction of any bodily organ or part.

l. Copayment charges are not applicable for services rendered by a health maintenance organization in which the member is enrolled.

m. No provider of service participating in the Medicaid program may deny care or services to a person eligible for care or services under the program because of the person's inability to pay a copayment. However, this rule does not change the fact that a member is liable for the charges and it does not preclude the provider from attempting to collect them.

n. The member shall pay a \$3 copayment for each visit to a hospital emergency room for treatment that does not meet the criteria for an emergency service as defined in paragraph 79.1(13) "k." This \$3 copayment shall not apply if the visit to the emergency room results in a hospital admission.

79.1(14) Reimbursement for hospice services.

a. Medicaid hospice rates. The Medicaid hospice rates are based on the methodology used in setting Medicare rates, adjusted to disregard cost offsets attributable to Medicare coinsurance amounts, and with application of the appropriate area wage adjustments for the categories of care provided.

Hospices are reimbursed at one of four predetermined rates based on the level of care furnished to the individual for that day. Payments to a hospice for inpatient care are subject to the limitations imposed by Medicare. The levels of care into which each day of care is classified are as follows:

- (1) Routine home care.
- (2) Continuous home care.
- (3) Inpatient respite care.
- (4) General inpatient care.

b. Adjustment to hospice rates. An adjustment to hospice reimbursement is made when a recipient residing in a nursing facility elects the hospice benefit. The adjustment will be a room and board rate that is equal to the rate at which the facility is paid for reserved bed days or 95 percent of the facility's Medicaid reimbursement rate, whichever is greater. Room and board services include the performance of personal care services, including assistance in activities of daily living, socializing activities, administration of medication, maintaining the cleanliness of a resident's room and supervising and assisting in the use of durable medical equipment and prescribed therapies.

For hospice recipients entering a nursing facility the adjustment will be effective the date of entry. For persons in nursing facilities prior to hospice election, the adjustment rate shall be effective the date of election.

For individuals who have client participation amounts attributable to their cost of care, the adjustment to the hospice will be reduced by the amount of client participation as determined by the department. The hospice will be responsible for collecting the client participation amount due the hospice unless the hospice and the nursing facility jointly determine the nursing facility is to collect the client participation.

c. Payment for day of discharge. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the recipient dies as an inpatient. When the recipient is discharged as deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

d. Hospice cap. Overall aggregate payments made to a hospice during a hospice cap period are limited or capped. The hospice cap year begins November 1 and ends October 31 of the next year. The cap amount for each hospice is calculated by multiplying the number of beneficiaries electing hospice care from that hospice during the cap period by the base statutory amount, adjusted to reflect the percentage increase or decrease in the medical care expenditure category of the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics. Payments made to a hospice but not included in the cap include room and board payment to a nursing home. Any payment in excess of the cap must be refunded to the department by the hospice.

e. Limitation of payments for inpatient care. Payments to a hospice for inpatient care shall be limited according to the number of days of inpatient care furnished to Medicaid patients. During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days (both for general inpatient care and inpatient respite care) shall not exceed 20 percent of the aggregate total number of days of hospice care provided to all Medicaid recipients during that same period. Medicaid recipients afflicted with acquired immunodeficiency syndrome (AIDS) are excluded in calculating this inpatient care limitation. This limitation is applied once each year, at the end of the hospices' "cap period" (November 1 to October 31). For purposes of this computation, if it is determined that the inpatient rate should not be paid, any days for which the hospice receives payment at a home care rate will not be counted as inpatient days. The limitation is calculated as follows:

(1) The maximum allowable number of inpatient days will be calculated by multiplying the total number of days of Medicaid hospice care by 0.2.

(2) If the total number of days of inpatient care furnished to Medicaid hospice patients is less than or equal to the maximum, no adjustment will be necessary.

(3) If the total number of days of inpatient care exceeded the maximum allowable number, the limitation will be determined by:

1. Calculating a ratio of the maximum allowable days to the number of actual days of inpatient care, and multiplying this ratio by the total reimbursement for inpatient care (general inpatient and inpatient respite reimbursement) that was made.

2. Multiplying excess inpatient care days by the routine home care rate.

3. Adding together the amounts calculated in "1" and "2."

4. Comparing the amount in "3" with interim payments made to the hospice for inpatient care during the "cap period."

Any excess reimbursement shall be refunded by the hospice.

f. Location of services. Claims must identify the geographic location where the service is provided (as distinct from the location of the hospice).

79.1(15) HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; HCBS supported employment enhanced job search activities; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency.

a. Reporting requirements.

(1) Providers shall submit cost reports for each waiver service provided using Form 470-0664, Financial and Statistical Report for Purchase of Service, and Form 470-3449, Supplemental Schedule. The cost reporting period is from July 1 to June 30. The completed cost reports shall be submitted to

the IME Provider Cost Audits and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, or by electronic mail to costaudit@dhs.state.ia.us, by September 30 of each year.

(2) If a provider chooses to leave the HCBS program or terminates a service, a final cost report shall be submitted within 60 days of termination for retrospective adjustment.

(3) Costs reported under the waiver shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under the waiver.

(4) Financial information shall be based on the agency's financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert the information to an accrual basis for reporting. Providers which are multiple program agencies shall submit a cost allocation schedule, prepared in accordance with generally accepted accounting principles.

(5) Failure to maintain records to support the cost reports may result in termination of the provider's HCBS certification.

(6) The department may require that an opinion of a certified public accountant or public accountant accompany the report when adjustments made to prior reports indicate noncompliance with reporting instructions.

(7) A 30-day extension for submitting the cost reports due by September 30 may be obtained by submitting a letter to the bureau of long-term care by September 30. No extensions will be granted beyond 30 days.

(8) Failure to submit a report that meets the requirements of this paragraph by September 30 or an extended deadline granted per subparagraph (7) shall reduce payment to 76 percent of the current rate. The reduced rate shall be paid for not longer than three months, after which time no further payments will be made.

b. Home- and community-based general rate criteria.

(1) To receive reimbursement for services, a certified provider shall enter into an agreement with the department on Form 470-2918, HCBS Waiver Agreement, and have an approved service plan for the consumer.

(2) The rates a provider may charge are subject to limits established in subrule 79.1(2).

(3) Indirect administrative costs shall be limited to 20 percent of other costs.

(4) Mileage costs shall be reimbursed according to state employee rate.

(5) Consumer transportation, consumer consulting, consumer instruction, consumer environmental modification and repairs and consumer environmental furnishings shall not exceed \$1,570 per consumer per year for supported community living services.

(6) For respite care provided in the consumer's home, only the cost of care is reimbursed.

(7) For respite care provided outside the consumer's home, charges may include room and board.

(8) Transportation and therapeutic resources reimbursement shall not exceed \$1,500 per child per year for family and community support services.

c. Prospective rates for new providers.

(1) Providers who have not submitted an annual report including at least 6 months of actual, historical costs shall be paid prospective rates based on projected reasonable and proper costs of operation for a 12-month period reported in Form SS-1703-0, Financial and Statistical Report, and Form 470-3449, Supplemental Schedule.

(2) Prospective rates shall be subject to retrospective adjustment as provided in paragraph "e."

(3) After a provider has submitted an annual report including at least six months of actual, historical costs, prospective rates shall be determined as provided in paragraph "d."

d. Prospective rates for established providers.

(1) Providers who have submitted an annual report including at least six months of actual, historical costs shall be paid prospective rates based on reasonable and proper costs in a base period, as adjusted for inflation.

(2) The base period shall be the period covered by the first Form SS-1703-0, Financial and Statistical Report, and Form 470-3449, Supplemental Schedule, submitted to the department after 1997 that includes at least six months of actual, historical costs.

(3) Reasonable and proper costs in the base period shall be inflated by a percentage of the increase in the consumer price index for all urban consumers for the preceding 12-month period ending June 30, based on the months included in the base period, to establish the initial prospective rate for an established provider.

(4) After establishment of the initial prospective rate for an established provider, the rate will be adjusted annually, effective for the third month after the month during which the annual cost report is submitted to the department. The provider's new rate shall be the actual reconciled rate or the previously established rate adjusted by the consumer price index for all urban consumers for the preceding 12-month period ending June 30, whichever is less.

(5) Prospective rates for services other than respite shall be subject to retrospective adjustment as provided in paragraph "f."

e. Prospective rates for respite. Rescinded IAB 5/1/13, effective 7/1/13.

f. Retrospective adjustments.

(1) Retrospective adjustments shall be made based on reconciliation of provider's reasonable and proper actual service costs with the revenues received for those services as reported on Form 470-3449, Supplemental Schedule, accompanying Form SS-1703-0, Financial and Statistical Report for Purchase of Service.

(2) Revenues exceeding adjusted actual costs by more than 4.5 percent shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective rate adjustment.

(3) Providers who do not reimburse revenues exceeding 104.5 percent of actual costs 30 days after notice is given by the department will have the revenues over 104.5 percent of the actual costs deducted from future payments.

g. Supported community living daily rate. For purposes of determining the daily rate for supported community living services, providers are treated as new providers until they have submitted an annual report including at least six months of actual costs for the same consumers at the same site with no significant change in any consumer's needs, or if there is a subsequent change in the consumers at a site or in any consumer's needs. Individual prospective daily rates are determined for each consumer. These rates may be adjusted no more than once every three months if there is a vacancy at the site for over 30 days or the consumer's needs have significantly changed. Rates adjusted on this basis will become effective the month a new cost report is submitted. Retrospective adjustments of the prospective daily rates are based on each site's average costs.

79.1(16) Outpatient reimbursement for hospitals.

a. Definitions.

"Allowable costs" means the costs defined as allowable in 42 CFR, Chapter IV, Part 413, as amended to October 1, 2007, except for the purposes of calculating direct medical education costs, where only the reported costs of the interns and residents are allowed. Further, costs are allowable only to the extent that they relate to patient care; are reasonable, ordinary, and necessary; and are not in excess of what a prudent and cost-conscious buyer would pay for the given service or item.

"Ambulatory payment classification" or "APC" means an outpatient service or group of services for which a single rate is set. The services or groups of services are determined according to the typical clinical characteristics, the resource use, and the costs associated with the service or services.

"Ambulatory payment classification relative weight" or "APC relative weight" means the relative value assigned to each APC.

"Ancillary service" means a supplemental service that supports the diagnosis or treatment of the patient's condition. Examples include diagnostic testing or screening services and rehabilitative services such as physical or occupational therapy.

"APC service" means a service that is priced and paid using the APC system.

"Base year cost report," for rates effective January 1, 2009, means the hospital's cost report with fiscal year end on or after January 1, 2007, and before January 1, 2008. Cost reports shall be reviewed using Medicare's cost reporting and cost reimbursement principles for those cost reporting periods.

"Blended base APC rate" shall mean the hospital-specific base APC rate, plus the statewide base APC rate, divided by two. The costs of hospitals receiving reimbursement as critical access hospitals

during any of the period included in the base-year cost report shall not be used in determining the statewide base APC rate.

“*Case-mix index*” shall mean an arithmetical index measuring the relative average costliness of outpatient cases treated in a hospital, compared to the statewide average.

“*Cost outlier*” shall mean services provided during a single visit that have an extraordinarily high cost as established in paragraph “g” and are therefore eligible for additional payments above and beyond the base APC payment.

“*Current procedural terminology—fourth edition (CPT-4)*” is the systematic listing and coding of procedures and services provided by physicians or other related health care providers. The CPT-4 coding is maintained by the American Medical Association and is updated yearly.

“*Diagnostic service*” means an examination or procedure performed to obtain information regarding the medical condition of an outpatient.

“*Direct medical education costs*” shall mean costs directly associated with the medical education of interns and residents or other medical education programs, such as a nursing education program or allied health programs, conducted in an outpatient setting, that qualify for payment as medical education costs under the Medicare program. The amount of direct medical education costs is determined from the hospital base-year cost reports and is inflated in determining the direct medical education rate.

“*Direct medical education rate*” shall mean a rate calculated for a hospital reporting medical education costs on the Medicare cost report (CMS 2552). The rate is calculated using the following formula: Direct medical education costs are multiplied by the percentage of valid claims to total claims, further multiplied by inflation factors, then divided by outpatient visits.

“*Discount factor*” means the percentage discount applied to additional APCs when more than one APC is provided during the same visit (including the same APC provided more than once). Not all APCs are subject to a discount factor.

“*GME/DSH fund apportionment claim set*” means the hospital’s applicable Medicaid claims paid from July 1, 2008, through June 30, 2009. The claim set is updated every three years in July.

“*GME/DSH fund implementation year*” means 2009.

“*Graduate medical education and disproportionate share fund*” or “*GME/DSH fund*” means a reimbursement fund developed as an adjunct reimbursement methodology to directly reimburse qualifying hospitals for the direct costs of interns and residents associated with the operation of graduate medical education programs for outpatient services.

“*Healthcare common procedures coding system*” or “*HCPCS*” means the national uniform coding method that is maintained by the Centers for Medicare and Medicaid Services (CMS) and that incorporates the American Medical Association publication Physicians Current Procedural Terminology (CPT) and the three HCPCS unique coding levels I, II, and III.

“*Hospital-based clinic*” means a clinic that is owned by the hospital, operated by the hospital under its hospital license, and on the premises of the hospital.

“*International classifications of diseases—fourth edition, ninth revision (ICD-9)*” is a systematic method used to classify and provide standardization to coding practices which are used to describe the diagnosis, symptom, complaint, condition or cause of a person’s injury or illness.

“*Medicaid claim set*” means the hospital’s applicable Medicaid claims for the period of January 1, 2006, through December 31, 2007, and paid through March 31, 2008.

“*Modifier*” means a two-character code that is added to the procedure code to indicate the type of service performed. The modifier allows the reporting hospital to indicate that a performed service or procedure has been altered by some specific circumstance. The modifier may affect payment or may be used for information only.

“*Multiple significant procedure discounting*” means a reduction of the standard payment amount for an APC to recognize that the marginal cost of providing a second APC service to a patient during a single visit is less than the cost of providing that service by itself.

“*Observation services*” means a set of clinically appropriate services, such as ongoing short-term treatment, assessment, and reassessment, that is provided before a decision can be made regarding

whether a patient needs further treatment as a hospital inpatient or is able to be discharged from the hospital.

“Outpatient hospital services” means preventive, diagnostic, therapeutic, observation, rehabilitation, or palliative services provided to an outpatient by or under the direction of a physician, dentist, or other practitioner by an institution that:

1. Is licensed or formally approved as a hospital by the officially designated authority in the state where the institution is located; and
2. Meets the requirements for participation in Medicare as a hospital.

“Outpatient prospective payment system” or *“OPPS”* means the payment methodology for hospital outpatient services established by this subrule and based on Medicare’s outpatient prospective payment system mandated by the Balanced Budget Refinement Act of 1999 and the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000.

“Outpatient visit” shall mean those hospital-based outpatient services which are billed on a single claim form.

“Packaged service” means a service that is secondary to other services but is considered an integral part of another service.

“Pass-through” means certain drugs, devices, and biologicals for which providers are entitled to payment separate from any APC.

“Quality improvement organization” or *“QIO”* shall mean the organization that performs medical peer review of Medicaid claims, including review of validity of hospital diagnosis and procedure coding information; completeness, adequacy and quality of care; and appropriateness of prospective payments for outlier cases and nonemergent use of the emergency room. These activities undertaken by the QIO may be included in a contractual relationship with the Iowa Medicaid enterprise.

“Rebasing” shall mean the redetermination of the blended base APC rate using more recent Medicaid cost report data.

“Significant procedure” shall mean the procedure, therapy, or service provided to a patient that constitutes the primary reason for the visit and dominates the time and resources expended during the visit.

“Status indicator” or *“SI”* means a payment indicator that identifies whether a service represented by a CPT or HCPCS code is payable under the OPSS APC or another payment system. Only one status indicator is assigned to each CPT or HCPCS code.

b. Outpatient hospital services. Medicaid adopts the Medicare categories of hospitals and services subject to and excluded from the hospital outpatient prospective payment system (OPSS) at 42 CFR 419.20 through 419.22 as amended to October 1, 2007, except as indicated in this subrule.

(1) A teaching hospital that has approval from the Centers for Medicare and Medicaid Services to receive reasonable cost reimbursement for physician services under 42 CFR 415.160 through 415.162 as amended to October 1, 2007, is eligible for combined billing status if the hospital has filed the approval notice with the Iowa Medicaid enterprise provider cost audit and rate setting unit. If a teaching hospital elects to receive reasonable cost payment for physician direct medical and surgical services furnished to Medicaid members, those services and the supervision of interns and residents furnishing the care to members are covered as hospital services and are combined with the bill for hospital service. Cost settlement for the reasonable costs related to physician direct medical and surgical services shall be made after receipt of the hospital’s financial and statistical report.

(2) A hospital-based ambulance service must be an enrolled Medicaid ambulance provider and must bill separately for ambulance services. EXCEPTION: If the member’s condition results in an inpatient admission to the hospital, the reimbursement for ambulance services is included in the hospital’s DRG reimbursement rate for the inpatient services.

(3) All psychiatric services for members who have a primary diagnosis of mental illness and are enrolled in the Iowa Plan program under 441—Chapter 88 shall be the responsibility of the Iowa Plan contractor and shall not be otherwise payable by Iowa Medicaid. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APC.

(4) Emergency psychiatric evaluations for members who are covered by the Iowa Plan shall be the responsibility of the Iowa Plan contractor. For members who are not covered by the Iowa Plan, services shall be payable under the APC for emergency psychiatric evaluation.

(5) Substance abuse services for persons enrolled in the Iowa Plan program under 441—Chapter 88 shall be the responsibility of the Iowa Plan contractor and shall not be otherwise payable by Iowa Medicaid. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APC.

c. Payment for outpatient hospital services.

(1) Outpatient hospital services shall be reimbursed according to the first of the following methodologies that applies to the service:

1. Any specific rate or methodology established by rule for the particular service.
2. The OPPS APC rates established pursuant to this subrule.
3. Fee schedule rates established pursuant to paragraph 79.1(1)“c.”

(2) Except as provided in paragraph 79.1(16)“h,” outpatient hospital services that have been assigned to an APC with an assigned weight shall be reimbursed based on the APC to which the services provided are assigned. The department adopts and incorporates by reference the OPPS APCs and relative weights effective January 1, 2008, published on November 27, 2007, as final by the Centers for Medicare and Medicaid Services in the Federal Register at Volume 72, No. 227, page 66579. Relative weights and APCs shall be updated pursuant to paragraph 79.1(16)“j.”

(3) The APC payment is calculated as follows:

1. The applicable APC relative weight is multiplied by the blended base APC rate determined according to paragraph 79.1(16)“e.”

2. The resulting APC payment is multiplied by a discount factor of 50 percent and by units of service when applicable.

3. For a procedure started but discontinued before completion, the department will pay 50 percent of the APC for the service.

(4) The OPPS APC payment status indicators show whether a service represented by a CPT or HCPCS code is payable under an OPPS APC or under another payment system and whether particular OPPS policies apply to the code. The following table lists the status indicators and definitions for both services that are paid under an OPPS APC and services that are not paid under an OPPS APC.

Indicator	Item, Code, or Service	OPPS Payment Status
A	<p>Services furnished to a hospital outpatient that are paid by Medicare under a fee schedule or payment system other than OPPS, such as:</p> <ul style="list-style-type: none"> ● Ambulance services. ● Clinical diagnostic laboratory services. ● Diagnostic mammography. ● Screening mammography. ● Nonimplantable prosthetic and orthotic devices. ● Physical, occupational, and speech therapy. ● Erythropoietin for end-stage renal dialysis (ESRD) patients. ● Routine dialysis services provided for ESRD patients in a certified dialysis unit of a hospital. 	<p>For services covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>For services not covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but may be paid by Iowa Medicaid under the specific rate or methodology established by other rules (other than outpatient hospital).</p>

Indicator	Item, Code, or Service	OPPS Payment Status
B	Codes that are not paid by Medicare on an outpatient hospital basis	<p>Not paid under OPPS APC.</p> <ul style="list-style-type: none"> • May be paid when submitted on a different bill type other than outpatient hospital (13x). • An alternate code that is payable when submitted on an outpatient hospital bill type (13x) may be available.
C	Inpatient procedures	<p>If covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC. Admit the patient and bill as inpatient care.</p>
D	Discontinued codes	Not paid under OPPS APC or any other Medicaid payment system.
E	<p>Items, codes, and services:</p> <ul style="list-style-type: none"> • That are not covered by Medicare based on statutory exclusion and may or may not be covered by Iowa Medicaid; or • That are not covered by Medicare for reasons other than statutory exclusion and may or may not be covered by Iowa Medicaid; or • That are not recognized by Medicare but for which an alternate code for the same item or service may be available under Iowa Medicaid; or • For which separate payment is not provided by Medicare but may be provided by Iowa Medicaid. 	<p>If covered by Iowa Medicaid, the item, code, or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item, code, or service is not paid under OPPS APC or any other Medicaid payment system.</p>
F	<p>Certified registered nurse anesthetist services</p> <p>Corneal tissue acquisition</p> <p>Hepatitis B vaccines</p>	<p>If covered by Iowa Medicaid, the item or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item or service is not paid under OPPS APC or any other Medicaid payment system.</p>
G	Pass-through drugs and biologicals	<p>If covered by Iowa Medicaid, the item is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item is not paid under OPPS APC or any other Medicaid payment system.</p>
H	Pass-through device categories	<p>If covered by Iowa Medicaid, the device is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the device is not paid under OPPS APC or any other Medicaid payment system.</p>

Indicator	Item, Code, or Service	OPPS Payment Status
K	Non-pass-through drugs and biologicals Therapeutic radiopharmaceuticals	If covered by Iowa Medicaid, the item is: <ul style="list-style-type: none"> ● Paid under OPPS APC with a separate APC payment when both an APC and an APC weight are established. ● Paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c” when either no APC or APC weight is established. <p>If not covered by Iowa Medicaid, the item is not paid under OPPS APC or any other Medicaid payment system.</p>
L	Influenza vaccine Pneumococcal pneumonia vaccine	If covered by Iowa Medicaid, the vaccine is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.” <p>If not covered by Iowa Medicaid, the vaccine is not paid under OPPS APC or any other Medicaid payment system.</p>
M	Items and services not billable to the Medicare fiscal intermediary	If covered by Iowa Medicaid, the item or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.” <p>If not covered by Iowa Medicaid, the item or service is not paid under OPPS APC or any other Medicaid payment system.</p>
N	Packaged services not subject to separate payment under Medicare OPPS payment criteria	Paid under OPPS APC. Payment, including outliers, is included with payment for other services; therefore, no separate payment is made.
P	Partial hospitalization	Not a covered service under Iowa Medicaid.
Q1	STVX-packaged codes	Paid under OPPS APC. <ul style="list-style-type: none"> ● Packaged APC payment if billed on the same date of service as HCPCS code assigned status indicator “S,” “T,” “V,” or “X.” ● In all other circumstances, payment is made through a separate APC payment.
Q2	T-packaged codes	Paid under OPPS APC. <ul style="list-style-type: none"> ● Packaged APC payment if billed on the same date of service as HCPCS code assigned status indicator “T.” ● In all other circumstances, payment is made through a separate APC payment.
Q3	Codes that may be paid through a composite APC	If covered by Iowa Medicaid, the code is paid under OPPS APC with separate APC payment. <p>If not covered by Iowa Medicaid, the code is not paid under OPPS APC or any other Medicaid payment system.</p>

Indicator	Item, Code, or Service	OPPS Payment Status
R	Blood and blood products	If covered by Iowa Medicaid, the item is paid under OPPS APC with separate APC payment. If not covered by Iowa Medicaid, the item is not paid under OPPS APC or any other Medicaid payment system.
S	Significant procedure, not discounted when multiple	If covered by Iowa Medicaid, the procedure is paid under OPPS APC with separate APC payment. If not covered by Iowa Medicaid, the procedure is not paid under OPPS APC or any other Medicaid payment system.
T	Significant procedure, multiple reduction applies	If covered by Iowa Medicaid, the procedure is paid under OPPS APC with separate APC payment subject to multiple reduction. If not covered by Iowa Medicaid, the procedure is not paid under OPPS APC or any other Medicaid payment system.
U	Brachytherapy sources	If covered by Iowa Medicaid, the procedure is paid under OPPS APC with separate APC payment. If not covered by Iowa Medicaid, the procedure is not paid under OPPS APC or any other Medicaid payment system.
V	Clinic or emergency department visit	If covered by Iowa Medicaid, the service is paid under OPPS APC with separate APC payment, subject to limits on nonemergency services provided in an emergency room pursuant to 79.1(16)“r.” If not covered by Iowa Medicaid, the service is not paid under OPPS APC or any other Medicaid payment system.
X	Ancillary services	If covered by Iowa Medicaid, the service is paid under OPPS APC with separate APC payment. If not covered by Iowa Medicaid, the service is not paid under OPPS APC or any other Medicaid payment system.
Y	Nonimplantable durable medical equipment	For items covered by Iowa Medicaid as an outpatient hospital service, the item is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.” For items not covered by Iowa Medicaid as an outpatient hospital service, the item is not paid as an outpatient hospital service, but may be paid by Iowa Medicaid under the specific rate or methodology established by other rules (other than outpatient hospital).

d. Calculation of case-mix indices. Hospital-specific and statewide case-mix indices shall be calculated using the Medicaid claim set.

(1) Hospital-specific case-mix indices are calculated by summing the relative weights for each APC service at that hospital and dividing the total by the number of APC services for that hospital.

(2) The statewide case-mix index is calculated by summing the relative weights for each APC service for all claims and dividing the total by the statewide total number of APC services. Claims for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report are not used in calculating the statewide case-mix index.

e. Calculation of the hospital-specific base APC rates.

(1) Using the hospital's base-year cost report, hospital-specific outpatient cost-to-charge ratios are calculated for each ancillary and outpatient cost center of the Medicare cost report, Form CMS 2552-96.

(2) The cost-to-charge ratios are applied to each line item charge reported on claims from the Medicaid claim set to calculate the Medicaid cost per service. The hospital's total outpatient Medicaid cost is the sum of the Medicaid cost per service for all line items.

(3) The following items are subtracted from the hospital's total outpatient Medicaid costs:

1. The total calculated Medicaid direct medical education cost for interns and residents based on the hospital's base-year cost report.

2. The total calculated Medicaid cost for services listed at 441—subrule 78.31(1), paragraphs “g” to “n.”

3. The total calculated Medicaid cost for ambulance services.

4. The total calculated Medicaid cost for services paid based on the Iowa Medicaid fee schedule.

(4) The remaining amount is multiplied by a factor to limit aggregate expenditures to available funding, divided by the hospital-specific case-mix index, and then divided by the total number of APC services for that hospital from the Medicaid claim set.

(5) Hospital-specific base APC rates are not computed for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report.

f. Calculation of statewide base APC rate.

(1) The statewide average base APC rate is calculated by summing the outpatient Medicaid cost for all hospitals and subtracting the following:

1. The total calculated Medicaid direct medical education cost for interns and residents for all hospitals.

2. The total calculated Medicaid cost for services listed at 441—subrule 78.31(1), paragraphs “g” to “n,” for all hospitals.

3. The total calculated Medicaid cost for ambulance services for all hospitals.

4. The total calculated Medicaid cost for services paid based on the Iowa Medicaid fee schedule for all hospitals.

(2) The resulting amount is multiplied by a factor to limit aggregate expenditures to available funding, divided by the statewide case-mix index, and then divided by the statewide total number of APC services from the Medicaid claim set.

(3) Data for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report is not used in calculating the statewide average base APC rate.

g. Cost outlier payment policy. Additional payment is made for services provided during a single visit that exceed the following Medicaid criteria of cost outliers for each APC. Outlier payments are determined on an APC-by-APC basis.

(1) An APC qualifies as a cost outlier when the cost of the service exceeds both the multiple threshold and the fixed-dollar threshold.

(2) The multiple threshold is met when the cost of furnishing an APC service exceeds 1.75 times the APC payment amount.

(3) The fixed-dollar threshold is met when the cost of furnishing an APC service exceeds the APC payment amount plus \$2,000.

(4) If both the multiple threshold and the fixed-dollar threshold are met, the outlier payment is calculated as 50 percent of the amount by which the hospital's cost of furnishing the APC service or procedure exceeds the multiple threshold.

(5) The cost of furnishing the APC service or procedure is calculated using a single overall hospital-specific cost-to-charge ratio determined from the base-year cost report. Costs appearing on a claim that are attributable to packaged APC services for which no separate payment is made are

allocated to all nonpackaged APC services that appear on that claim. The amount allocated to each nonpackaged APC service is based on the proportion the APC payment rate for that APC service bears to the total APC rates for all nonpackaged APC services on the claim.

h. Payment to critical access hospitals. Initial, interim payments to critical access hospitals as defined in paragraph 79.1(5)“a” shall be the hospital’s line-item charge multiplied by the hospital’s Medicaid outpatient cost-to-charge ratio. These interim payments are subject to annual retrospective adjustment equal to the difference between the reasonable costs of covered services provided to eligible fee-for-service Medicaid members (excluding members in managed care) and the Medicaid reimbursement received. The department shall determine the reasonable costs of services based on the hospital’s annual cost reports and Medicare cost principles. When the interim amounts paid exceed reasonable costs, the department shall recover the difference.

(1) After any retrospective adjustment, the department shall update the cost-to-charge ratio to reflect as accurately as is possible the reasonable costs of providing the covered service to eligible fee-for-service Medicaid members for the coming year. The department shall base these changes on the most recent utilization as submitted to the Iowa Medicaid enterprise provider cost audit and rate setting unit and Medicare cost principles.

(2) Once a hospital begins receiving reimbursement as a critical access hospital, the cost-to-charge ratio is not subject to rebasing as provided in paragraph 79.1(16)“j.”

i. Cost-reporting requirements. Hospitals shall prepare annual cost reports in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and in accordance with Medicare Provider Reimbursement Manual, CMS Publication 15, subject to the exceptions and limitations provided in this rule.

(1) Using electronic media, each hospital shall submit the following:

1. The hospital’s Medicare cost report (Form CMS 2552-96, Hospitals and Healthcare Complex Cost Report);

2. Either Form 470-4515, Critical Access Hospital Supplemental Cost Report, or Form 470-4514, Hospital Supplemental Cost Report; and

3. A copy of the revenue code crosswalk used to prepare the Medicare cost report.

(2) The cost reports and supporting documentation shall be sent to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, P.O. Box 36450, Des Moines, Iowa 50315.

(3) The cost reports shall be submitted on or before the last day of the fifth calendar month following the close of the period covered by the report. For fiscal periods ending on a day other than the last day of the month, cost reports are due 150 days after the last day of the cost-reporting period. Extensions of the due date for filing a cost report granted by the Medicare fiscal intermediary shall be accepted by Iowa Medicaid.

j. Rebasing.

(1) Effective January 1, 2009, and annually thereafter, the department shall update the OPPS APC relative weights using the most current calendar update as published by the Centers for Medicare and Medicaid Services.

(2) Effective January 1, 2009, and every three years thereafter, blended base APC rates shall be rebased. Cost reports used in rebasing shall be the hospital fiscal year-end Form CMS 2552-96, Hospital and Healthcare Complex Cost Report, as submitted to Medicare in accordance with Medicare cost report submission time lines for the hospital fiscal year ending during the preceding calendar year. If a hospital does not provide this cost report, including the Medicaid cost report and revenue code crosswalk, to the Iowa Medicaid enterprise provider cost audit and rate setting unit by May 31 of a year in which rebasing occurs, the most recent submitted cost report will be used.

(3) Effective January 1, 2009, and every three years thereafter, case-mix indices shall be recalculated using valid claims most nearly matching each hospital’s fiscal year end.

(4) The graduate medical education and disproportionate share fund shall be updated as provided in subparagraph 79.1(16)“v”(3).

k. Payment to out-of-state hospitals. Out-of-state hospitals providing care to members of Iowa's Medicaid program shall be reimbursed in the same manner as Iowa hospitals, except as provided in subparagraphs (1) and (2).

(1) For out-of-state hospitals that submit a cost report no later than May 31 in the most recent rebasing year, APC payment amounts will be based on the blended base APC rate using hospital-specific, Iowa-only Medicaid data. For other out-of-state hospitals, APC payment amounts will be based on the Iowa statewide base APC rate.

(2) Out-of-state hospitals do not qualify for direct medical education payments pursuant to paragraph 79.1(16)“v.”

l. Preadmission, preauthorization or inappropriate services. Inpatient or outpatient services that require preadmission or preprocedure approval by the quality improvement organization (QIO) are updated yearly and are available from the QIO.

(1) The hospital shall provide the QIO authorization number on the claim form to receive payment. Claims for services requiring preadmission or preprocedure approval that are submitted without this authorization number will be denied.

(2) To safeguard against other inappropriate practices, the department, through the QIO, will monitor admission practices and quality of care. If an abuse of the prospective payment system is identified, payments for abusive practices may be reduced or denied. In reducing or denying payment, Medicaid adopts the Medicare QIO regulations.

m. Health care access assessment inflation factor. Effective with the implementation of the health care access assessment paid pursuant to 441—Chapter 36, Division III, a health care access assessment inflation factor shall be applied to the Medicaid blended base APC rate as otherwise calculated pursuant to this subrule for all “participating hospitals” as defined in 441—subrule 36.10(1).

(1) Calculation of inflation factor. The health care access assessment inflation factor for participating hospitals shall be calculated by dividing the amount allowed under the Medicare outpatient upper payment limit for the fiscal year beginning July 1, 2010, by the sum of the projected expenditures for participating hospitals for the fiscal year beginning July 1, 2010, as determined by the fiscal management division of the department, and the amount allowed under the Medicare outpatient upper payment limit.

(2) Implementation date. The health care access assessment inflation factor shall not be implemented until federal financial participation to match money collected from the health care access assessment pursuant to 441—Chapter 36, Division III, has been approved by the federal Centers for Medicare and Medicaid Services.

(3) End date. Application of the health care access assessment inflation factor shall terminate if the health care access assessment is terminated pursuant to rule 441—36.12(83GA,SF2388). If federal match money is unavailable for a retroactive period or the authority to collect the assessment is rescinded for a retroactive period, the department shall:

1. Recalculate Medicaid rates in effect during that period without the application of the health care access assessment inflation factor;
2. Recompute Medicaid payments due based on the recalculated Medicaid rates;
3. Recoup any previous overpayments; and
4. Determine for each hospital the amount of health care access assessment collected during that period and refund that amount to the facility.

n. Determination of inpatient admission. A person is considered to be an inpatient when a formal inpatient admission occurs, when a physician intends to admit a person as an inpatient, or when a physician determines that a person being observed as an outpatient in an observation or holding bed should be admitted to the hospital as an inpatient. In cases involving outpatient observation status, the determinant of patient status is not the length of time the patient was being observed, rather whether the observation period was medically necessary to determine whether a patient should be admitted to the hospital as an inpatient. Outpatient observation lasting greater than a 24-hour period will be subject to review by the QIO to determine the medical necessity of each case. For those outpatient observation

cases where medical necessity is not established, reimbursement shall be denied for the services found to be unnecessary for the provision of that care, such as the use of the observation room.

o. Inpatient admission after outpatient services. If a patient is admitted as an inpatient within three days of the day in which outpatient services were rendered, all outpatient services related to the principal diagnosis are considered inpatient services for billing purposes. The day of formal admission as an inpatient is considered as the first day of hospital inpatient services. EXCEPTION: This requirement does not apply to critical access hospitals.

p. Cost report adjustments. Rescinded IAB 6/11/03, effective 7/16/03.

q. Determination of payment amounts for mental health noninpatient (NIP) services. Mental health NIP services are limited as set forth at 441—subparagraph 78.31(4)“d”(7) and are reimbursed on a fee schedule basis. Mental health NIP services are the responsibility of the managed mental health care and substance abuse (Iowa Plan) contractor for persons eligible for managed mental health care.

r. Services delivered in the emergency room. Payment to a hospital for assessment of any Medicaid member in an emergency room shall be made pursuant to fee schedule. Payment for treatment of a Medicaid member in an emergency room shall be made as follows:

(1) If the emergency room visit results in an inpatient hospital admission, the treatment provided in the emergency room is paid for as part of the payment for the inpatient services provided.

(2) If the emergency room visit does not result in an inpatient hospital admission but involves emergency services as defined in paragraph 79.1(13)“k,” payment for treatment provided in the emergency room shall be made at the full APC payment for the treatment provided.

(3) If the emergency room visit does not result in an inpatient hospital admission and does not involve emergency services as defined in paragraph 79.1(13)“k,” payment for treatment provided in the emergency room depends on whether the member had a referral to the emergency room and on whether the member is participating in the MediPASS program.

1. For members not participating in the MediPASS program who were referred to the emergency room by appropriate medical personnel and for members participating in the MediPASS program who were referred to the emergency room by their MediPASS primary care physician, payment for treatment provided in the emergency room shall be made at 75 percent of the APC payment for the treatment provided.

2. For members not participating in the MediPASS program who were not referred to the emergency room by appropriate medical personnel, payment for treatment provided in the emergency room shall be made at 50 percent of the APC payment for the treatment provided.

3. For members participating in the MediPASS program who were not referred to the emergency room by their MediPASS primary care physician, no payment will be made for treatment provided in the emergency room.

s. Limit on payments. Payments under the ambulatory payment classification (APC) methodology, as well as other payments for outpatient services, are subject to upper limit rules set forth in 42 CFR 447.321 as amended to September 5, 2001, and 447.325 as amended to January 26, 1993. Requirements under these sections state that, in general, Medicaid may not make payments to providers that would exceed the amount that would be payable to providers under comparable circumstances under Medicare.

t. Government-owned facilities. Rescinded IAB 6/30/10, effective 7/1/10.

u. QIO review. The QIO will review a yearly random sample of hospital outpatient service cases performed for Medicaid members and identified on claims data from all Iowa and bordering state hospitals in accordance with the terms in the contract between the department and the QIO. The QIO contract is available for review at the Iowa Medicaid Enterprise Office, 100 Army Post Road, Des Moines, Iowa 50315.

v. Graduate medical education and disproportionate share fund. Payment shall be made to hospitals qualifying for direct medical education directly from the graduate medical education and disproportionate share fund. The requirements to receive payments from the fund, the amount allocated to the fund and the methodology used to determine the distribution amounts from the fund are as follows:

(1) Qualifying for direct medical education. Iowa hospitals qualify for direct medical education payments if direct medical education costs that qualify for payment as medical education costs under the Medicare program are contained in the hospital's base year cost report and in the most recent cost report submitted before the start of the state fiscal year for which payments are being made. Out-of-state hospitals do not qualify for direct medical education payments.

(2) Allocation to fund for direct medical education. The total annual state fiscal year funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to outpatient services is \$2,766,718.25. If a hospital fails to qualify for direct medical education payments from the fund because the hospital does not report direct medical education costs that qualify for payment as medical education costs under the Medicare program in the most recent cost report submitted before the start of the state fiscal year for which payments are being made, the amount of money that would have been paid to that hospital shall be removed from the fund.

(3) Distribution to qualifying hospitals for direct medical education. Distribution of the amount in the fund for direct medical education shall be on a monthly basis. To determine the amount to be distributed to each qualifying hospital for direct medical education, the following formula is used:

1. Multiply the total count of outpatient visits for claims paid from the GME/DSH fund apportionment claim set for each hospital reporting direct medical education costs that qualify for payment as medical education costs under the Medicare program in the hospital's base year cost report by each hospital's direct medical education rate to obtain a dollar value.

2. Sum the dollar values for each hospital, then divide each hospital's dollar value by the total dollar value, resulting in a percentage.

3. Multiply each hospital's percentage by the amount allocated for direct medical education to determine the payment to each hospital.

w. Final settlement for state-owned teaching hospital.

(1) Effective July 1, 2010, total annual payments to an Iowa state-owned hospital for inpatient and outpatient hospital services shall equal 100 percent of allowable medical assistance program costs, not to exceed the sum of the following:

1. Payments for inpatient hospital services calculated in accordance with subrule 79.1(5), plus
2. Payment for outpatient hospital services calculated in accordance with subrule 79.1(16), plus
3. \$9,900,000.

(2) One-twelfth of the \$9,900,000 increase in reimbursement shall be distributed to the hospital on a monthly basis.

(3) The Iowa Medicaid enterprise shall complete a final settlement based on the hospital's Medicare cost report. If the aggregate payments are less than the hospital's actual medical assistance program costs, no additional payment shall be made.

(4) If the sum of the inpatient hospital service payments plus outpatient hospital service payments plus the \$9,900,000 exceeds 100 percent of allowable inpatient and outpatient costs, the department shall request and collect from the hospital the amount by which payments exceed actual medical assistance program costs.

79.1(17) Reimbursement for home- and community-based services home and vehicle modification and equipment. Payment is made for home and vehicle modifications, assistive devices, specialized medical equipment, and environmental modifications and adaptive devices at the amount authorized by the department through a quotation, contract, or invoice submitted by the provider.

a. The case manager shall submit the service plan and the contract, invoice or quotations from the providers to the Iowa Medicaid enterprise for prior approval before the modification is initiated or the equipment is purchased. Payment shall not be approved for duplicate items.

b. Whenever possible, three itemized bids for the modification or quotations for equipment purchase shall be presented for review. The amount payable shall be based on the least expensive item that meets the member's medical needs.

c. Payment for most items shall be based on a fee schedule and shall conform to the limitations set forth in subrule 79.1(12).

(1) For services and items that are furnished under Part B of Medicare, the fee shall be the lowest charge allowed under Medicare.

(2) For services and items that are furnished only under Medicaid, the fee shall be the lowest charge determined by the department according to the Medicare reimbursement method described in Section 1834(a) of the Social Security Act (42 U.S.C. 1395m), Payment for Durable Medical Equipment.

(3) Payment for supplies with no established Medicare fee shall be at the average wholesale price for the item less 10 percent.

(4) Payment for items with no Medicare fee, Medicaid fee, or average wholesale price shall be made at the manufacturer's suggested retail price less 15 percent.

(5) Payment for items with no Medicare fee, Medicaid fee, average wholesale price, or manufacturer's suggested retail price shall be made at the dealer's cost plus 10 percent. The actual invoice for the item from the manufacturer must be submitted with the claim. Catalog pages or printouts supplied by the provider are not considered invoices.

(6) For selected medical services, supplies, and equipment, including equipment servicing, that generally do not vary significantly in quality from one provider to another, the payment shall be the lowest price for which such devices are widely and consistently available in a locality.

(7) Payment for used equipment shall not exceed 80 percent of the purchase allowance.

(8) No allowance shall be made for delivery, freight, postage, or other provider operating expenses for durable medical equipment, prosthetic devices, or sickroom supplies.

79.1(18) *Pharmaceutical case management services reimbursement.* Pharmacist and physician pharmaceutical case management (PCM) team members shall be equally reimbursed for participation in each of the four services described in rule 441—78.47(249A). The following table contains the amount each team member shall be reimbursed for the services provided and the maximum number of payments for each type of assessment. Payment for services beyond the maximum number of payments shall be considered on an individual basis after peer review of submitted documentation of medical necessity.

<u>Service</u>	<u>Payment amount</u>	<u>Number of payments</u>
Initial assessment	\$75	One per patient
New problem assessment	\$40	Two per patient per 12 months
Problem follow-up assessment	\$40	Four per patient per 12 months
Preventative follow-up assessment	\$25	One per patient per 6 months

79.1(19) *Reimbursement for translation and interpretation services.* Reimbursement for translation and interpretation services shall be made to providers based on the reimbursement methodology for the provider category as defined in subrule 79.1(2).

a. For those providers whose basis of reimbursement is cost-related, translation and interpretation services shall be considered an allowable cost.

b. For those providers whose basis of reimbursement is a fee schedule, a fee shall be established for translation and interpretation services, which shall be treated as a reimbursable service. In order for translation or interpretation to be covered, it must be provided by separate employees or contractors solely performing translation or interpretation activities.

79.1(20) *Dentists.* The dental fee schedule is based on the definitions of dental and surgical procedures given in the Current Dental Terminology, Third Edition (CDT-3).

79.1(21) *Rehabilitation agencies.* Subject to the Medicaid upper limit in 79.1(2), payments to rehabilitation agencies shall be made as provided in the areawide fee schedule established for Medicare by the Centers for Medicare and Medicaid Services (CMS). The Medicare fee schedule is based on the definitions of procedures from the physicians' Current Procedural Terminology (CPT) published by the American Medical Association. CMS adjusts the fee schedules annually to reflect changes in the consumer price index for all urban customers.

79.1(22) *Medicare crossover claims for inpatient and outpatient hospital services.* Subject to approval of a state plan amendment by the federal Centers for Medicare and Medicaid Services, payment for crossover claims shall be made as follows.

a. Definitions. For purposes of this subrule:

“*Crossover claim*” means a claim for Medicaid payment for Medicare-covered inpatient or outpatient hospital services rendered to a Medicare beneficiary who is also eligible for Medicaid. Crossover claims include claims for services rendered to beneficiaries who are eligible for Medicaid in any category, including, but not limited to, qualified Medicare beneficiaries and beneficiaries who are eligible for full Medicaid coverage.

“*Medicaid-allowed amount*” means the Medicaid prospective reimbursement for the services rendered (including any portion to be paid by the Medicaid beneficiary as copayment or spenddown), as determined under state and federal law and policies.

“*Medicaid reimbursement*” means any amount to be paid by the Medicaid beneficiary as a Medicaid copayment or spenddown and any amount to be paid by the department after application of any applicable Medicaid copayment or spenddown.

“*Medicare payment amount*” means the Medicare reimbursement rate for the services rendered in a crossover claim, excluding any Medicare coinsurance or deductible amounts to be paid by the Medicare beneficiary.

b. Reimbursement of crossover claims. Crossover claims for inpatient or outpatient hospital services covered under Medicare and Medicaid shall be reimbursed as follows.

(1) If the Medicare payment amount for a crossover claim exceeds or equals the Medicaid-allowed amount for that claim, Medicaid reimbursement for the crossover claim shall be zero.

(2) If the Medicaid-allowed amount for a crossover claim exceeds the Medicare payment amount for that claim, Medicaid reimbursement for the crossover claim shall be the lesser of:

1. The Medicaid-allowed amount minus the Medicare payment amount; or
2. The Medicare coinsurance and deductible amounts applicable to the claim.

79.1(23) *Reimbursement for remedial services.* Reimbursement for remedial services provided before July 1, 2011, shall be made on the basis of a unit rate that is calculated retrospectively for each provider, considering reasonable and proper costs of operation. The unit rate shall not exceed the established unit-of-service limit on reasonable costs pursuant to subparagraph 79.1(23)“c”(1). The unit of service may be a quarter hour, a half hour, an hour, a half day, or a day, depending on the service provided.

a. Interim rate. Providers shall be reimbursed through a prospective interim rate equal to the previous year’s retrospectively calculated unit-of-service rate. On an interim basis, pending determination of remedial services provider costs, the provider may bill for and shall be reimbursed at a unit-of-service rate that the provider and the Iowa Medicaid enterprise may reasonably expect to produce total payments to the provider for the provider’s fiscal year that are consistent with Medicaid’s obligation to reimburse that provider’s reasonable costs. The interim unit-of-service rate is subject to the established unit-of-service limit on reasonable costs pursuant to subparagraph 79.1(23)“c”(1).

b. Cost reports. Reasonable and proper costs of operation shall be determined based on cost reports submitted by the provider.

(1) Financial information shall be based on the provider’s financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert the information to an accrual basis for reporting. Failure to maintain records to support the cost report may result in termination of the provider’s Medicaid enrollment.

(2) The provider shall complete Form 470-4414, Financial and Statistical Report for Remedial Services, and submit it to the IME Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, within three months of the end of the provider’s fiscal year.

(3) A provider may obtain a 30-day extension for submitting the cost report by sending a letter to the IME provider cost audit and rate setting unit before the cost report due date. No extensions will be granted beyond 30 days.

(4) Providers of services under multiple programs shall submit a cost allocation schedule, prepared in accordance with the generally accepted accounting principles and requirements specified in OMB Circular A-87. Costs reported under remedial services shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under remedial services.

c. Rate determination. Cost reports as filed shall be subject to review and audit by the Iowa Medicaid enterprise to determine the actual cost of services rendered to Medicaid members, using an accepted method of cost apportionment (as specified in OMB Circular A-87).

(1) A reasonable cost for a member is one that does not exceed 110 percent of the average allowable costs reported by Iowa Medicaid providers for providing similar remedial services to members who have similar diagnoses and live in similar settings, less 5 percent.

(2) When the reasonable and proper costs of operation are determined, a retroactive adjustment shall be made. The retroactive adjustment represents the difference between the amount received by the provider through an interim rate during the year for covered services and the reasonable and proper costs of operation determined in accordance with this subrule.

79.1(24) Reimbursement for home- and community-based habilitation services. Reimbursement for case management, job development, and employer development services provided prior to July 1, 2013, is based on a fee schedule developed using the methodology described in paragraph 79.1(1)“d.” Reimbursement for home-based habilitation, day habilitation, prevocational habilitation, enhanced job search and supports to maintain employment services provided prior to July 1, 2013, is based on a retrospective cost-related rate calculated using the methodology in paragraphs 79.1(24)“b” and “c.” Reimbursement for all home- and community-based habilitation services provided on or after July 1, 2013, shall be as provided in paragraph 79.1(24)“d.” All rates are subject to the upper limits established in subrule 79.1(2).

a. Units of service.

(1) A unit of case management is 15 minutes.

(2) A unit of home-based habilitation is a 15-minute unit (for up to 31 units per day) or one day (for 8 or more hours per day), based on the average hours of service provided during a 24-hour period as an average over a calendar month. Reimbursement for services shall not exceed the upper limit for daily home-based habilitation services set in 79.1(2).

1. The daily unit of service shall be used when a member receives services for 8 or more hours provided during a 24-hour period as an average over a calendar month. The 15-minute unit shall be used when the member receives services for 1 to 31 15-minute units provided during a 24-hour period as an average over a calendar month.

2. The member’s comprehensive service plan must identify and reflect the need for the amount of supervision and skills training requested. The provider’s documentation must support the number of direct support hours identified in the comprehensive service plan.

(3) A unit of day habilitation is 15 minutes (up to 16 units per day) or a full day (4.25 to 8 hours).

(4) A unit of prevocational habilitation is an hour (for up to 4 units per day) or a full day (4.25 to 8 hours).

(5) A unit of supported employment habilitation for activities to obtain a job is:

1. One job placement for job development and employer development.

2. A 15-minute unit for enhanced job search.

(6) A unit of supported employment habilitation supports to maintain employment is a 15-minute unit.

b. Submission of cost reports. For services provided prior to July 1, 2013, the department shall determine reasonable and proper costs of operation for home-based habilitation, day habilitation, prevocational habilitation, and supported employment based on cost reports submitted by the provider on Form 470-4425, Financial and Statistical Report for HCBS Habilitation Services.

(1) Financial information shall be based on the provider’s financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert

the information to an accrual basis for reporting. Failure to maintain records to support the cost report may result in termination of the provider's Medicaid enrollment.

(2) For home-based habilitation, the provider's cost report shall reflect all staff-to-member ratios and costs associated with members' specific support needs for travel and transportation, consulting, and instruction, as determined necessary by the interdisciplinary team for each consumer. The specific support needs must be identified in the member's comprehensive service plan. The total costs shall not exceed \$1570 per consumer per year. The provider must maintain records to support all expenditures.

(3) The provider shall submit the complete cost report to the IME Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, within three months of the end of the provider's fiscal year. The submission must include a working trial balance. Cost reports submitted without a working trial balance will be considered incomplete.

(4) A provider may obtain a 30-day extension for submitting the cost report by sending a letter to the IME provider cost audit and rate setting unit before the cost report due date. No extensions will be granted beyond 30 days.

(5) A provider of services under multiple programs shall submit a cost allocation schedule, prepared in accordance with the generally accepted accounting principles and requirements specified in OMB Circular A-87. Costs reported under habilitation services shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under habilitation services.

(6) If a provider fails to submit a cost report for services provided through June 30, 2013, that meets the requirements of this paragraph, the Iowa Medicaid enterprise or the Iowa Plan for Behavioral Health contractor shall reduce the provider's rate to 76 percent of the current rate. The reduced rate shall be paid until the provider's cost report has been received by the Iowa Medicaid enterprise's provider cost audit and rate setting unit pursuant to subparagraph 79.1(24) "b"(4) but for not longer than three months, after which time no further payments will be made.

(7) A projected cost report shall be submitted when a new habilitation services provider enters the program or an existing habilitation services provider adds a new service code. A prospective interim rate shall be established using the projected cost report. The effective date of the rate shall be the day the provider becomes certified as a Medicaid provider or the day the new service is added.

c. Rate determination based on cost reports. For services provided prior to July 1, 2013, reimbursement shall be made using a unit rate that is calculated retrospectively for each provider, considering reasonable and proper costs of operation.

(1) Interim rates. Providers shall be reimbursed through a prospective interim rate equal to the previous year's retrospectively calculated unit-of-service rate. Pending determination of habilitation services provider costs, the provider may bill for and shall be reimbursed at a unit-of-service rate that the provider and the Iowa Medicaid enterprise may reasonably expect to produce total payments to the provider for the provider's fiscal year that are consistent with Medicaid's obligation to reimburse that provider's reasonable costs.

(2) Audit of cost reports. Cost reports as filed shall be subject to review and audit by the Iowa Medicaid enterprise to determine the actual cost of services rendered to Medicaid members, using an accepted method of cost apportionment (as specified in OMB Circular A-87).

(3) Retroactive adjustment. When the reasonable and proper costs of operation are determined, a retroactive adjustment shall be made. The retroactive adjustment represents the difference between the amount that the provider received during the year for covered services through an interim rate and the reasonable and proper costs of operation determined in accordance with this subrule.

d. Reimbursement for services provided on or after July 1, 2013.

(1) For dates of services July 1, 2013, through December 31, 2013, providers shall be reimbursed by the Iowa Plan for Behavioral Health contractor at the fee schedule or interim rate for the service and the provider in effect on June 30, 2013, with no retrospective adjustment or cost settlement. However, if a provider fails to submit a cost report for services provided prior to July 1, 2013, that meets the requirements of paragraph 79.1(24) "b," the Iowa Plan for Behavioral Health contractor shall reduce the

provider's reimbursement rate to 76 percent of the rate in effect on June 30, 2013. The reduced rate shall be paid until acceptable cost reports for all services provided prior to July 1, 2013, have been received.

(2) For dates of services on or after January 1, 2014, providers shall be reimbursed by the Iowa Plan for Behavioral Health contractor at the rate negotiated by the provider and the contractor. However, if a provider fails to submit a cost report for services provided prior to July 1, 2013, that meets the requirements of paragraph 79.1(24) "b," the Iowa Plan for Behavioral Health contractor shall reduce the provider's reimbursement rate to 76 percent of the negotiated rate. The reduced rate shall be paid until acceptable cost reports for all services provided prior to July 1, 2013, have been received.

79.1(25) Reimbursement for community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3).

a. Reimbursement methodology. Effective for services rendered on or after October 1, 2006, community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under Iowa Code section 225C.7(3) that provide clinic services are paid on a reasonable-cost basis as determined by Medicare reimbursement principles. Rates are initially paid on an interim basis and then are adjusted retroactively based on submission of a financial and statistical report.

(1) Until a provider that was enrolled into the Medicaid program before October 1, 2006, submits a cost report in order to develop a provider-specific interim rate, the Iowa Medicaid enterprise shall make interim payments to the provider based upon 105 percent of the greater of:

1. The statewide fee schedule for community mental health centers effective July 1, 2006, or
2. The average Medicaid managed care contracted fee amounts for community mental health centers effective July 1, 2006.

(2) For a provider that enrolls in the Medicaid program on or after October 1, 2006, until a provider-specific interim rate is developed, the Iowa Medicaid enterprise shall make interim payments based upon the average statewide interim rates for community mental health centers at the time services are rendered. A new provider may submit a projected cost report that the Iowa Medicaid enterprise will use to develop a provider-specific interim rate.

(3) Cost reports as filed are subject to review and audit by the Iowa Medicaid enterprise. The Iowa Medicaid enterprise shall determine each provider's actual, allowable costs in accordance with generally accepted accounting principles and in accordance with Medicare cost principles, subject to the exceptions and limitations in the department's administrative rules.

(4) The Iowa Medicaid enterprise shall make retroactive adjustment of the interim rate after the submission of annual cost reports. The adjustment represents the difference between the amount the provider received during the year through interim payments for covered services and the amount determined to be the actual, allowable cost of service rendered to Medicaid members.

(5) The Iowa Medicaid enterprise shall use each annual cost report to develop a provider-specific interim fee schedule to be paid prospectively. The effective date of the fee schedule change is the first day of the month following completion of the cost settlement.

b. Reporting requirements. All providers shall submit cost reports using Form 470-4419, Financial and Statistical Report. A hospital-based provider shall also submit the Medicare cost report, CMS Form 2552-96.

(1) Financial information shall be based on the provider's financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert the information to an accrual basis for reporting. Failure to maintain records to support the cost report may result in termination of the provider's enrollment with the Iowa Medicaid program.

(2) Providers that offer multiple programs shall submit a cost allocation schedule prepared in accordance with generally accepted accounting principles and requirements as specified in OMB Circular A-87 adopted in federal regulations at 2 CFR Part 225 as amended to August 31, 2005.

(3) Costs reported for community mental health clinic services shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under community mental health clinic services.

(4) Providers shall submit completed cost reports to the IME Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315. A provider that is not hospital-based shall submit Form 470-4419 on or before the last day of the third month after the end of the provider's fiscal year. A hospital-based provider shall submit both Form 470-4419 and CMS Form 2552-96 on or before the last day of the fifth month after the end of the provider's fiscal year.

(5) A provider may obtain a 30-day extension for submitting the cost report by submitting a letter to the IME provider cost audit and rate setting unit before the cost report due date. No extensions will be granted beyond 30 days.

(6) If a provider fails to submit a cost report that meets the requirements of this paragraph, the Iowa Medicaid enterprise shall reduce the provider's interim payments to 76 percent of the current interim rate. The reduced interim rate shall be paid for not longer than three months, after which time no further payments will be made.

79.1(26) Home health services.

a. Services included under the home health services program are reimbursed on the low utilization payment amount (LUPA) methodology, with state geographic adjustments.

b. Medicare LUPA per-visit rates in effect on July 1, 2013, are the basis for establishing the LUPA methodology for the initial reimbursement schedule.

c. Medicare LUPA per-visit rates shall be increased July 1 every two years to reflect the most recent Medicare LUPA rates.

d. Home health services subject to this methodology are skilled nursing, home health aide, physical therapy, occupational therapy, speech therapy, and medical social services provided by Medicare-certified home health agencies.

79.1(27) Reimbursement for early periodic screening, diagnosis, and treatment private duty nursing and personal cares program.

a. *Rate determination based on cost reports.* Reimbursement shall be made using an hourly rate that is calculated retrospectively for each provider, considering reasonable and proper costs of operation not to exceed the upper limit as provided in subrule 79.1(2).

(1) Interim rates. Providers shall be reimbursed through a prospective interim rate equal to the previous year's retrospectively calculated 15-minute and hourly rate. Pending determination of private duty nursing and personal cares program costs, the provider may bill for and shall be reimbursed at an hourly rate that the provider and the Iowa Medicaid enterprise (IME) may reasonably expect to produce total payments to the provider for the provider's fiscal year that are consistent with Medicaid's obligation to reimburse that provider's reasonable costs.

(2) Audit of cost reports. Cost reports as filed shall be subject to review or audit or both by the Iowa Medicaid enterprise to determine the actual cost of services in accordance with generally accepted accounting principles, Medicare cost principles published in Centers for Medicare and Medicaid Services Publication §15-1, and the Office of Management and Budget Circular A-87, Attachment B, subject to the exceptions and limitations in the department's administrative rules.

(3) Retroactive adjustment. When the reasonable and proper costs of operation are determined, a retroactive adjustment shall be made. The retroactive adjustment represents the difference between the amount that the provider received during the year for covered services through interim rates and the reasonable and proper costs of operation determined in accordance with this subrule.

b. Financial and statistical report submission and reporting requirements.

(1) The provider shall submit the complete Financial and Statistical Report, Form 1728-94, in an electronic format approved by the department to the IME provider cost audit and rate setting unit within five months of the end of the provider's fiscal year.

(2) The submission of the financial and statistical report must include a working trial balance that corresponds to the data contained on the financial and statistical report and the Medicare cost report. Financial and statistical reports submitted without a working trial balance and the Medicare cost report will be considered incomplete.

(3) A provider may obtain a 30-day extension for submitting the financial and statistical report by sending a letter to the IME provider cost audit and rate setting unit. The extension request must be

received by the IME provider cost audit and rate setting unit before the original due date. No extensions will be granted beyond 30 days.

(4) Providers shall submit a completed financial and statistical report to the IME provider cost audit and rate setting unit in an electronic format that can be opened using the extension .xls or .xlsx. The supplemental documentation shall be submitted in a generally accepted business format. The report and required supplemental information shall be e-mailed to costaudit@dhs.state.ia.us on or before the last day of the fifth month after the end of the provider's fiscal year. One signed copy of the certification page of the Medicaid and Medicare cost reports shall be mailed to the IME Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, no later than the due date of the required electronic submissions.

(5) If a provider fails to submit a cost report that meets the requirement of subparagraph 79.1(27) "b"(4), the department shall reduce payment to 75 percent of the current rate(s).

1. The reduced rate(s) shall be effective the first day of the sixth month following the provider's fiscal year end and shall remain in effect until the first day of the month after the delinquent report is received by the IME provider cost audit and rate setting unit.

2. The reduced rate(s) shall be paid for no longer than three months, after which time no further payments will be made until the first day of the month after the delinquent report is received by the IME provider cost audit and rate setting unit.

(6) Financial information shall be based on the provider's financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert the information to an accrual basis for reporting and provide documentation detailing these adjustments. Failure to maintain records to support the cost report may result in the following, but not limited to:

1. Recoupment of Medicaid payments.
2. Penalties.
3. Sanctions pursuant to rule 441—79.3(249A).

(7) The department, in its sole discretion, may on its own initiative reopen a review of a financial and statistical report at any time. No other entity or person has the right to request that the department or its contractor reopen a review of a financial and statistical report, or to submit an amended financial and statistical report for review by the department, after the provider is notified of its reimbursement rates following review of a financial and statistical report.

(8) A projected cost report shall be submitted when a home health agency enters the program or adds private duty nursing and the personal cares program. Prospective interim rates shall be established using the projected cost report. The effective date of the rate shall be the day the provider becomes certified as a Medicaid provider or the day the new program is added.

(9) A provider of services under multiple programs shall submit a cost allocation schedule that was used during the preparation of the financial and statistical report.

(10) Costs reported under private duty nursing and the personal cares program shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under private duty nursing and the personal cares program.

(11) When a provider continues to include as an item of cost an item or items which had in a prior period been removed by an adjustment by the department or its contractor, in the total program costs, the contractor shall recommend to the department that the reimbursement rates be reduced to 75 percent of the current reimbursement rate for the entire quarter beginning the first day of the sixth month after the provider's fiscal year end. The department may, after considering the seriousness of the exception, make the reduction.

(12) Nothing in this subrule relieves a provider of its obligation to immediately inform the department that it has retained Medicaid funds to which it is not entitled as a result of any cost report process. A provider must notify the Iowa Medicaid enterprise when the provider notes that funds are incorrectly paid or when an overpayment has been detected.

c. Terminated home health agencies.

(1) A participating home health agency contemplating termination of private duty nursing and the personal cares program shall provide the department of human services with at least 60 days' prior notice.

The person responsible for the termination is responsible for submission of a final financial and statistical report through the date of the termination. The final home health cost report shall meet the reporting requirements in paragraph 79.1(27)“b.”

(2) For facilities that terminate activity with the Iowa Medicaid enterprise, a financial and statistical report from the beginning of the fiscal year to the date of termination will be required, regardless if termination is voluntary, involuntary or due to a change in ownership. All documentation in paragraph 79.1(27)“a” shall be submitted 45 days after the date of termination, by the terminated (closed) entity. If no report is received within 45 days, the Iowa Medicaid enterprise will begin the process to recoup all funds for dates of service beginning from the last filed cost report to the date of termination.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 7835B, IAB 6/3/09, effective 7/8/09; ARC 7937B, IAB 7/1/09, effective 7/1/09; ARC 7957B, IAB 7/15/09, effective 7/1/09 (See Delay note at end of chapter); ARC 8205B, IAB 10/7/09, effective 11/11/09; ARC 8206B, IAB 10/7/09, effective 11/11/09; ARC 8344B, IAB 12/2/09, effective 12/1/09; ARC 8643B, IAB 4/7/10, effective 3/11/10; ARC 8647B, IAB 4/7/10, effective 3/11/10; ARC 8649B, IAB 4/7/10, effective 3/11/10; ARC 8894B, IAB 6/30/10, effective 7/1/10; ARC 8899B, IAB 6/30/10, effective 7/1/10; ARC 9046B, IAB 9/8/10, effective 8/12/10; ARC 9127B, IAB 10/6/10, effective 11/10/10; ARC 9134B, IAB 10/6/10, effective 10/1/10; ARC 9132B, IAB 10/6/10, effective 11/1/10; ARC 9176B, IAB 11/3/10, effective 12/8/10; ARC 9316B, IAB 12/29/10, effective 2/2/11; ARC 9403B, IAB 3/9/11, effective 5/1/11; ARC 9440B, IAB 4/6/11, effective 4/1/11; ARC 9487B, IAB 5/4/11, effective 7/1/11; ARC 9588B, IAB 6/29/11, effective 9/1/11; ARC 9706B, IAB 9/7/11, effective 8/17/11; ARC 9708B, IAB 9/7/11, effective 8/17/11; ARC 9710B, IAB 9/7/11, effective 8/17/11; ARC 9704B, IAB 9/7/11, effective 9/1/11; ARC 9712B, IAB 9/7/11, effective 9/1/11; ARC 9714B, IAB 9/7/11, effective 9/1/11; ARC 9719B, IAB 9/7/11, effective 9/1/11; ARC 9722B, IAB 9/7/11, effective 9/1/11; ARC 9884B, IAB 11/30/11, effective 1/4/12; ARC 9886B, IAB 11/30/11, effective 1/4/12; ARC 9887B, IAB 11/30/11, effective 1/4/12; ARC 9958B, IAB 1/11/12, effective 2/15/12; ARC 9959B, IAB 1/11/12, effective 2/15/12; ARC 9960B, IAB 1/11/12, effective 2/15/12; ARC 9996B, IAB 2/8/12, effective 1/19/12; ARC 0028C, IAB 3/7/12, effective 4/11/12; ARC 0029C, IAB 3/7/12, effective 4/11/12; ARC 9959B nullified (See nullification note at end of chapter); ARC 0191C, IAB 7/11/12, effective 7/1/12; ARC 0194C, IAB 7/11/12, effective 7/1/12; ARC 0196C, IAB 7/11/12, effective 7/1/12; ARC 0198C, IAB 7/11/12, effective 7/1/12; ARC 0358C, IAB 10/3/12, effective 11/7/12; ARC 0359C, IAB 10/3/12, effective 12/1/12; ARC 0355C, IAB 10/3/12, effective 12/1/12; ARC 0354C, IAB 10/3/12, effective 12/1/12; ARC 0360C, IAB 10/3/12, effective 12/1/12; ARC 0485C, IAB 12/12/12, effective 2/1/13; ARC 0545C, IAB 1/9/13, effective 3/1/13; ARC 0548C, IAB 1/9/13, effective 1/1/13; ARC 0581C, IAB 2/6/13, effective 4/1/13; ARC 0585C, IAB 2/6/13, effective 1/9/13; ARC 0665C, IAB 4/3/13, effective 6/1/13; ARC 0708C, IAB 5/1/13, effective 7/1/13; ARC 0710C, IAB 5/1/13, effective 7/1/13; ARC 0713C, IAB 5/1/13, effective 7/1/13; ARC 0757C, IAB 5/29/13, effective 8/1/13; ARC 0823C, IAB 7/10/13, effective 9/1/13; ARC 0838C, IAB 7/24/13, effective 7/1/13; ARC 0840C, IAB 7/24/13, effective 7/1/13; ARC 0842C, IAB 7/24/13, effective 7/1/13; ARC 0848C, IAB 7/24/13, effective 7/1/13; ARC 0864C, IAB 7/24/13, effective 7/1/13; ARC 0994C, IAB 9/4/13, effective 11/1/13; ARC 1051C, IAB 10/2/13, effective 11/6/13; ARC 1056C, IAB 10/2/13, effective 11/6/13; ARC 1057C, IAB 10/2/13, effective 11/6/13; ARC 1058C, IAB 10/2/13, effective 11/6/13; ARC 1071C, IAB 10/2/13, effective 10/1/13; ARC 1150C, IAB 10/30/13, effective 1/1/14; ARC 1152C, IAB 10/30/13, effective 1/1/14; ARC 1154C, IAB 10/30/13, effective 1/1/14; ARC 1481C, IAB 6/11/14, effective 8/1/14]

441—79.2(249A) Sanctions.

79.2(1) Definitions.

“*Affiliates*” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or influences or has the power to control or influence another.

“*Iowa Medicaid enterprise*” means the entity comprised of department staff and contractors responsible for the management and reimbursement of Medicaid services for the benefit of Medicaid members.

“*Person*” means any individual human being or any company, firm, association, corporation, institution, or other legal entity. “*Person*” includes but is not limited to a provider and any affiliate of a provider.

“*Probation*” means a specified period of conditional participation in the medical assistance program.

“*Provider*” means an individual human being, firm, corporation, association, institution, or other legal entity, which is providing or has been approved to provide medical assistance to a member pursuant to the state medical assistance program.

“*Suspension from participation*” means an exclusion from participation for a specified period of time.

“*Suspension of payments*” means the temporary cessation of payments due a person until the resolution of the matter in dispute between the person and the department.

“*Termination from participation*” means a permanent exclusion from participation in the medical assistance program.

“*Withholding of payments*” means a reduction or adjustment of the amounts paid to a person on pending and subsequently submitted bills for purposes of offsetting overpayments previously made to a person.

79.2(2) *Grounds for sanctions.* The department may impose sanctions against any person when appropriate. Appropriate grounds for the department to impose sanctions include, but are not limited to, the following:

a. Presenting or causing to be presented for payment any false, intentionally misleading, or fraudulent claim for services or merchandise.

b. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information for the purpose of obtaining greater compensation than that to which the person is legally entitled, including charges in excess of usual and customary charges.

c. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information for the purpose of meeting prior authorization or level of care requirements.

d. Upon lawful demand, failing to disclose or make available to the department, the department’s authorized agent, any law enforcement or peace officer, any agent of the department of inspections and appeals’ Medicaid fraud control unit, any agent of the auditor of state, the Iowa department of justice, any false claims investigator as defined under Iowa Code chapter 685, or any other duly authorized federal or state agent or agency records of services provided to medical assistance members or records of payments made for those services.

e. Failing to provide or maintain quality services, or a requisite assurance of a framework of quality services to medical assistance recipients within accepted medical community standards as adjudged by professional peers if applicable. For purposes of this subrule, “quality services” means services provided in accordance with the applicable rules and regulations governing the services.

f. Engaging in a course of conduct or performing an act which is in violation of any federal, state, or local statute, rule, regulation, or ordinance, or an applicable contractual provision, that relates to, or arises out of, any publicly or privately funded health care program, including but not limited to any state medical assistance program.

g. Submitting a false, intentionally misleading, or fraudulent certification or statement, whether the certification or statement is explicit or implied, to the department or the department’s representative or to any other publicly or privately funded health care program.

h. Overutilization of the medical assistance program by inducing, furnishing or otherwise causing a member to receive services or merchandise not required or requested.

i. Violating any provision of Iowa Code chapter 249A, or any rule promulgated pursuant thereto, or violating any federal or state false claims Act, including but not limited to Iowa Code chapter 685.

j. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information in an application for provider status under the medical assistance program or any quality review or other submission required to maintain good standing in the program.

k. Violating any law, regulation, or code of ethics governing the conduct of an occupation, profession, or other regulated business activity, when the violation relates to, or arises out of, the delivery of services under the state medical assistance program.

l. Breaching any settlement or similar agreement with the department.

m. Failing to meet standards required by state or federal law for participation, including but not limited to licensure.

n. Exclusion from Medicare or any other state or federally funded medical assistance program.

o. Except as authorized by law, charging a person for covered services over and above what the department paid or would pay or soliciting, offering, or receiving a kickback, bribe, or rebate, or accepting or rebating a fee or a charge for medical assistance or patient referral, or a portion thereof. This ground does not include the collection of a copayment or deductible if otherwise allowed by law.

p. Failing to correct a deficiency in provider operations after receiving notice of the deficiency from the department or other federal or state agency.

q. Formal reprimand or censure by an association of the provider’s peers or similar entity related to professional conduct.

r. Suspension or termination for cause from participation in another program, including but not limited to workers' compensation or any publicly or privately funded health care program.

s. Indictment or other institution of criminal charges for, or plea of guilty or nolo contendere to, or conviction of, any crime punishable by a term of imprisonment greater than one year, any crime of violence, any controlled substance offense, or any crime involving an allegation of dishonesty or negligent practice resulting in death or injury to a provider's patient.

t. Violation of a condition of probation, suspension of payments, or other sanction.

u. Loss, restriction, or lack of hospital privileges for cause.

v. Negligent, reckless, or intentional endangerment of the health, welfare, or safety of a person.

w. Billing for services provided by an excluded, nonenrolled, sanctioned, or otherwise ineligible provider or person.

x. Failing to submit a self-assessment, corrective action plan, or other requirement for continued participation in the medical assistance program, or failing to repay an overpayment of medical assistance funds, in a timely manner, as set forth in a rule or other order.

y. Attempting, aiding or abetting, conspiring, or knowingly advising or encouraging another person in the commission of one or more of the grounds specified herein.

79.2(3) Sanctions.

a. The department may impose any of the following sanctions on any person:

(1) A term of probation for participation in the medical assistance program.

(2) Termination from participation in the medical assistance program.

(3) Suspension from participation in the medical assistance program.

(4) Suspension of payments in whole or in part.

(5) Prior authorization of services.

(6) Review of claims prior to payment.

b. The withholding of payments or a recoupment of medical assistance funds is not, in itself, a sanction. Overpayments and interest charged may be withheld from future payments to the provider without imposing a sanction.

c. Mandatory suspensions and terminations.

(1) Suspension or termination from participation in the medical assistance program is mandatory when a person is suspended or terminated from participation in the Medicare program, another state's medical assistance program, or by any licensing body. The suspension or termination from participation in the medical assistance program shall be retroactive to the date established by the Centers for Medicare and Medicaid Services or other state or body and, in the case of a suspension, must continue until at least such time as the Medicare or other state's or body's suspension ends.

(2) Termination is mandatory when a person pleads guilty or nolo contendere to, or is convicted of, any crime punishable by a term of imprisonment greater than five years, any crime of violence, any controlled substance offense, or any crime involving an allegation of dishonesty. Termination is also mandatory upon entry of final judgment, in the Iowa district court or a federal district court of the United States, of liability of the person in a false claims action.

(3) Suspension from participation is mandatory whenever a person, or an affiliate of the person, has an outstanding overpayment of medical assistance funds, as defined in Iowa Code chapter 249A.

d. Notwithstanding any previous successful enrollment in the medical assistance program, the person's passing of any background check by the department or any other entity, or similar prior approval for participation as a provider in the medical assistance program, in whole or in part, termination from the medical assistance program is mandatory when, in the case of a natural person, the person has within the last five years been listed on any dependent adult abuse registry, child abuse registry, or sex offender registry or, in the case of a corporation or similar entity, 5 percent or more of the corporation or similar entity is owned by a person who has within the last five years been listed on any dependent adult abuse registry, child abuse registry, or sex offender registry.

79.2(4) Imposition and extent of sanction.

a. The department shall consider the totality of the circumstances in determining the sanctions to be imposed. The factors the department may consider include, but are not limited to:

- (1) Seriousness of the offense.
- (2) Extent of violations.
- (3) History of prior violations.
- (4) Prior imposition of sanctions.
- (5) Prior provision of provider education (technical assistance).
- (6) Provider willingness to obey program rules.
- (7) Whether a lesser sanction will be sufficient to remedy the problem.
- (8) Actions taken or recommended by peer review groups or licensing boards.

b. A ground for sanction may precede enrollment in the medical assistance program, the person's passing of a background check, or similar prior approval for participation as a provider in the medical assistance program. The mere fact of an enrollment, a person's passing of a background check, or another approval is not relevant to the sanction decision.

c. Upon certification from the U.S. Department of Justice or the Iowa department of justice that a provider has failed to respond to a civil investigative demand in a timely manner as set forth in Iowa Code chapter 685 and the demand itself, the department shall immediately suspend the provider from participation and suspend all payments to the provider. The suspension and payment suspension shall end upon certification that the provider has responded to the demand in full.

79.2(5) *Scope of sanction.*

a. Suspension or termination from participation shall preclude the person from submitting claims for payment, whether personally or through claims submitted by any other person or affiliate, for any services or supplies except for those services provided before the suspension or termination.

b. No person may submit claims for payment for any services or supplies provided by a person or affiliate who has been suspended or terminated from participation in the medical assistance program except for those services provided before the suspension or termination.

c. When the provisions of this subrule are violated, the department may sanction any person responsible for the violation.

79.2(6) *Notice to third parties.* When a sanction is imposed, the department may notify third parties of the findings made and the sanction imposed, including but not limited to law enforcement or peace officers and federal or state agencies. The imposition of a sanction is not required before the department may notify third parties of a person's conduct. In accordance with 42 CFR § 1002.212, the department must notify other state agencies, applicable licensing boards, the public, and Medicaid members, as provided in 42 CFR §§ 1001.2005 and 1001.2006, whenever the department initiates an exclusion under 42 CFR § 1002.210.

79.2(7) *Notice of violation.*

a. Any order of sanction shall be in writing and include the name of the person subject to sanction, identify the ground for the sanction and its effective date, and be sent to the person's last-known address. If the department sanctions a provider, the order of sanction shall also include the national provider identification number of the provider and be sent to the provider's last address on file within the medical assistance program.

b. In the case of a currently enrolled provider otherwise in good standing with all program requirements, the provider shall have 15 days subsequent to the date of the notice prior to the department action to show cause why the action should not be taken. If the provider fails to do so, the sanction shall remain effective pending any subsequent appeal under 441—Chapter 7. If the provider attempts to show cause but the department determines the sanction should remain effective pending any subsequent appeal under 441—Chapter 7, the provider may seek a temporary stay of the department's action from the director or the director's designee by filing an application for stay with the appeals section. The director or the director's designee shall consider the factors listed in Iowa Code section 17A.19(5) "c."

79.2(8) *Suspension or withholding of payments pending a final determination.* Where the department has notified a provider of any sanction, overpayment, civil monetary penalty, or other adverse action, the department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or may suspend payment

pending a final determination. Where the department intends to withhold or suspend payments it shall notify the provider in writing.

79.2(9) *Civil monetary penalties and interest.* Civil monetary penalties and interest assessed in accordance with 2013 Iowa Acts, Senate File 357, section 5 or section 11, are not allowable costs for any aspect of determining payment to a person within the medical assistance program. Under no circumstance shall the department reimburse a person for such civil monetary penalties or interest.

79.2(10) *Report and return of identified overpayment.*

a. If a person has identified an overpayment, the person must report and return the overpayment in the form and manner set forth in this subrule.

b. A person has identified an overpayment if the person has actual knowledge of the existence of the overpayment or acts in reckless disregard or deliberate ignorance of the existence of the overpayment.

c. An overpayment required to be reported under 2013 Iowa Acts, Senate File 357, section 3, must be made in writing, addressed to the Program Integrity Unit of the Iowa Medicaid Enterprise, and contain all of the following:

- (1) Person's name.
- (2) Person's tax identification number.
- (3) How the error was discovered.
- (4) The reason for the overpayment.
- (5) Claim number(s), as appropriate.
- (6) Date(s) of service.
- (7) Member identification number(s).
- (8) National provider identification (NPI) number.
- (9) Description of the corrective action plan to ensure the error does not occur again, if applicable.
- (10) Whether the person has a corporate integrity agreement with the Office of the Inspector General (OIG) or is under the OIG Self-Disclosure Protocol or is presently under sanction by the department.
- (11) The time frame and the total amount of refund for the period during which the problem existed that caused the refund.
- (12) If a statistical sample was used to determine the overpayment amount, a description of the statistically valid methodology used to determine the overpayment.
- (13) A refund in the amount of the overpayment.

This rule is intended to implement Iowa Code section 249A.4.
[ARC 1155C, IAB 10/30/13, effective 1/1/14]

441—79.3(249A) Maintenance of records by providers of service. A provider of a service that is charged to the medical assistance program shall maintain complete and legible records as required in this rule. Failure to maintain records or failure to make records available to the department or to its authorized representative timely upon request shall result in claim denial or recoupment.

79.3(1) *Financial (fiscal) records.*

a. A provider of service shall maintain records as necessary to:

- (1) Support the determination of the provider's reimbursement rate under the medical assistance program; and
- (2) Support each item of service for which a charge is made to the medical assistance program.

These records include financial records and other records as may be necessary for reporting and accountability.

b. A financial record does not constitute a medical record.

79.3(2) *Medical (clinical) records.* A provider of service shall maintain complete and legible medical records for each service for which a charge is made to the medical assistance program. Required records shall include any records required to maintain the provider's license in good standing.

a. Definition. "Medical record" (also called "clinical record") means a tangible history that provides evidence of:

- (1) The provision of each service and each activity billed to the program; and
- (2) First and last name of the member receiving the service.

b. Purpose. The medical record shall provide evidence that the service provided is:

- (1) Medically necessary;
- (2) Consistent with the diagnosis of the member's condition; and
- (3) Consistent with professionally recognized standards of care.

c. Components.

(1) Identification. Each page or separate electronic document of the medical record shall contain the member's first and last name. In the case of electronic documents, the member's first and last name must appear on each screen when viewed electronically and on each page when printed. As part of the medical record, the medical assistance identification number and the date of birth must also be identified and associated with the member's first and last name.

(2) Basis for service—general rule. General requirements for all services are listed herein. For the application of these requirements to specific services, see paragraph 79.3(2) "d." The medical record shall reflect the reason for performing the service or activity, substantiate medical necessity, and demonstrate the level of care associated with the service. The medical record shall include the items specified below unless the listed item is not routinely received or created in connection with a particular service or activity and is not required to document the reason for performing the service or activity, the medical necessity of the service or activity, or the level of care associated with the service or activity:

1. The member's complaint, symptoms, and diagnosis.
2. The member's medical or social history.
3. Examination findings.
4. Diagnostic test reports, laboratory test results, or X-ray reports.
5. Goals or needs identified in the member's plan of care.
6. Physician orders and any prior authorizations required for Medicaid payment.
7. Medication records, pharmacy records for prescriptions, or providers' orders.
8. Related professional consultation reports.
9. Progress or status notes for the services or activities provided.
10. All forms required by the department as a condition of payment for the services provided.
11. Any treatment plan, care plan, service plan, individual health plan, behavioral intervention plan, or individualized education program.
12. The provider's assessment, clinical impression, diagnosis, or narrative, including the complete date thereof and the identity of the person performing the assessment, clinical impression, diagnosis, or narrative.
13. Any additional documentation necessary to demonstrate the medical necessity of the service provided or otherwise required for Medicaid payment.

(3) Service documentation. The record for each service provided shall include information necessary to substantiate that the service was provided and shall include the following:

1. The specific procedures or treatments performed.
2. The complete date of the service, including the beginning and ending date if the service is rendered over more than one day.
3. The complete time of the service, including the beginning and ending time if the service is billed on a time-related basis. For those time-related services billed using Current Procedural Terminology (CPT) codes, the total time of the service shall be recorded, rather than the beginning and ending time.
4. The location where the service was provided if otherwise required on the billing form or in 441—paragraph 77.30(5) "c" or "d," 441—paragraph 77.33(6) "d," 441—paragraph 77.34(5) "d," 441—paragraph 77.37(15) "d," 441—paragraph 77.39(13) "e," 441—paragraph 77.39(14) "d," or 441—paragraph 77.46(5) "i," or 441—subparagraph 78.9(10) "a"(1).
5. The name, dosage, and route of administration of any medication dispensed or administered as part of the service.
6. Any supplies dispensed as part of the service.
7. The first and last name and professional credentials, if any, of the person providing the service.
8. The signature of the person providing the service, or the initials of the person providing the service if a signature log indicates the person's identity.

9. For 24-hour care, documentation for every shift of the services provided, the member's response to the services provided, and the person who provided the services.

(4) Outcome of service. The medical record shall indicate the member's progress in response to the services rendered, including any changes in treatment, alteration of the plan of care, or revision of the diagnosis.

d. Basis for service requirements for specific services. The medical record for the following services must include, but is not limited to, the items specified below (unless the listed item is not routinely received or created in connection with the particular service or activity and is not required to document the reason for performing the service or activity, its medical necessity, or the level of care associated with it). These items will be specified on Form 470-4479, Documentation Checklist, when the Iowa Medicaid enterprise program integrity unit requests providers to submit records for review. (See paragraph 79.4(2) "b.")

- (1) Physician (MD and DO) services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
- (2) Pharmacy services:
 1. Prescriptions.
 2. Nursing facility physician order.
 3. Telephone order.
 4. Pharmacy notes.
 5. Prior authorization documentation.
- (3) Dentist services:
 1. Treatment notes.
 2. Anesthesia notes and records.
 3. Prescriptions.
- (4) Podiatrist services:
 1. Service or office notes or narratives.
 2. Certifying physician statement.
 3. Prescription or order form.
- (5) Certified registered nurse anesthetist services:
 1. Service notes or narratives.
 2. Preanesthesia physical examination report.
 3. Operative report.
 4. Anesthesia record.
 5. Prescriptions.
- (6) Other advanced registered nurse practitioner services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
- (7) Optometrist and optician services:
 1. Notes or narratives supporting eye examinations, medical services, and auxiliary procedures.
 2. Original prescription or updated prescriptions for corrective lenses or contact lenses.
 3. Prior authorization documentation.
- (8) Psychologist services:
 1. Service or office psychotherapy notes or narratives.
 2. Psychological examination report and notes.
- (9) Clinic services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Nurses' notes.
 4. Prescriptions.
 5. Medication administration records.
- (10) Services provided by rural health clinics or federally qualified health centers:

1. Service or office notes or narratives.
2. Form 470-2942, Prenatal Risk Assessment.
3. Procedure, laboratory, or test orders and results.
4. Immunization records.
- (11) Services provided by community mental health centers:
 1. Service referral documentation.
 2. Initial evaluation.
 3. Individual treatment plan.
 4. Service or office notes or narratives.
 5. Narratives related to the peer review process and peer review activities related to a member's treatment.
 6. Written plan for accessing emergency services.
- (12) Screening center services:
 1. Service or office notes or narratives.
 2. Immunization records.
 3. Laboratory reports.
 4. Results of health, vision, or hearing screenings.
- (13) Family planning services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Nurses' notes.
 4. Immunization records.
 5. Consent forms.
 6. Prescriptions.
 7. Medication administration records.
- (14) Maternal health center services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Form 470-2942, Prenatal Risk Assessment.
- (15) Birthing center services:
 1. Service or office notes or narratives.
 2. Form 470-2942, Prenatal Risk Assessment.
- (16) Ambulatory surgical center services:
 1. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
 2. Physician orders.
 3. Consent forms.
 4. Anesthesia records.
 5. Pathology reports.
 6. Laboratory and X-ray reports.
- (17) Hospital services:
 1. Physician orders.
 2. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
 3. Progress or status notes.
 4. Diagnostic procedures, including laboratory and X-ray reports.
 5. Pathology reports.
 6. Anesthesia records.
 7. Medication administration records.
- (18) State mental hospital services:
 1. Service referral documentation.
 2. Resident assessment and initial evaluation.

3. Individual comprehensive treatment plan.
 4. Service notes or narratives (history and physical, therapy records, discharge summary).
 5. Form 470-0042, Case Activity Report.
 6. Medication administration records.
- (19) Services provided by skilled nursing facilities, nursing facilities, and nursing facilities for persons with mental illness:
1. Physician orders.
 2. Progress or status notes.
 3. Service notes or narratives.
 4. Procedure, laboratory, or test orders and results.
 5. Nurses' notes.
 6. Physical therapy, occupational therapy, and speech therapy notes.
 7. Medication administration records.
 8. Form 470-0042, Case Activity Report.
- (20) Services provided by intermediate care facilities for persons with mental retardation:
1. Physician orders.
 2. Progress or status notes.
 3. Preliminary evaluation.
 4. Comprehensive functional assessment.
 5. Individual program plan.
 6. Form 470-0374, Resident Care Agreement.
 7. Program documentation.
 8. Medication administration records.
 9. Nurses' notes.
 10. Form 470-0042, Case Activity Report.
- (21) Services provided by psychiatric medical institutions for children:
1. Physician orders or court orders.
 2. Independent assessment.
 3. Individual treatment plan.
 4. Service notes or narratives (history and physical, therapy records, discharge summary).
 5. Form 470-0042, Case Activity Report.
 6. Medication administration records.
- (22) Hospice services:
1. Physician certifications for hospice care.
 2. Form 470-2618, Election of Medicaid Hospice Benefit.
 3. Form 470-2619, Revocation of Medicaid Hospice Benefit.
 4. Plan of care.
 5. Physician orders.
 6. Progress or status notes.
 7. Service notes or narratives.
 8. Medication administration records.
 9. Prescriptions.
- (23) Services provided by rehabilitation agencies:
1. Physician orders.
 2. Initial certification, recertifications, and treatment plans.
 3. Narratives from treatment sessions.
 4. Treatment and daily progress or status notes and forms.
- (24) Home- and community-based habilitation services:
1. Notice of decision for service authorization.
 2. Service plan (initial and subsequent).
 3. Service notes or narratives.
- (25) Behavioral health intervention:

1. Order for services.
2. Comprehensive treatment or service plan (initial and subsequent).
3. Service notes or narratives.
- (26) Services provided by area education agencies and local education agencies:
 1. Service notes or narratives.
 2. Individualized education program (IEP).
 3. Individual health plan (IHP).
 4. Behavioral intervention plan.
- (27) Home health agency services:
 1. Plan of care or plan of treatment.
 2. Certifications and recertifications.
 3. Service notes or narratives.
 4. Physician orders or medical orders.
- (28) Services provided by independent laboratories:
 1. Laboratory reports.
 2. Physician order for each laboratory test.
- (29) Ambulance services:
 1. Documentation on the claim or run report supporting medical necessity of the transport.
 2. Documentation supporting mileage billed.
- (30) Services of lead investigation agencies:
 1. Service notes or narratives.
 2. Child's lead level logs (including laboratory results).
 3. Written investigation reports to family, owner of building, child's medical provider, and local childhood lead poisoning prevention program.
 4. Health education notes, including follow-up notes.
- (31) Medical supplies:
 1. Prescriptions.
 2. Certificate of medical necessity.
 3. Prior authorization documentation.
 4. Medical equipment invoice or receipt.
- (32) Orthopedic shoe dealer services:
 1. Service notes or narratives.
 2. Prescriptions.
 3. Certifying physician's statement.
- (33) Case management services, including HCBS case management services:
 1. Form 470-3956, MR/CMI/DD Case Management Service Authorization Request, for services authorized before May 1, 2007.
 2. Notice of decision for service authorization.
 3. Service notes or narratives.
 4. Social history.
 5. Comprehensive service plan.
 6. Reassessment of member needs.
 7. Incident reports in accordance with 441—subrule 24.4(5).
- (34) Early access service coordinator services:
 1. Individualized family service plan (IFSP).
 2. Service notes or narratives.
- (35) Home- and community-based waiver services, other than case management:
 1. Notice of decision for service authorization.
 2. Service plan.
 3. Service logs, notes, or narratives.
 4. Mileage and transportation logs.
 5. Log of meal delivery.

6. Invoices or receipts.
7. Forms 470-3372, HCBS Consumer-Directed Attendant Care Agreement, and 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record.

(36) Physical therapist services:

1. Physician order for physical therapy.
2. Initial physical therapy certification, recertifications, and treatment plans.
3. Treatment notes and forms.
4. Progress or status notes.

(37) Chiropractor services:

1. Service or office notes or narratives.
2. X-ray results.

(38) Hearing aid dealer and audiologist services:

1. Physician examinations and audiological testing (Form 470-0361, Sections A, B, and C).
2. Documentation of hearing aid evaluation and selection (Form 470-0828).
3. Waiver of informed consent.
4. Prior authorization documentation.
5. Service or office notes or narratives.

(39) Behavioral health services:

1. Assessment.
2. Individual treatment plan.
3. Service or office notes or narratives.

(40) Health home services:

1. Comprehensive care management plan.
2. Care coordination and health promotion plan.
3. Comprehensive transitional care plan, including appropriate follow-up, from inpatient to other settings.
4. Documentation of member and family support (including authorized representatives).
5. Documentation of referral to community and social support services, if relevant.

(41) Services of public health agencies:

1. Service or office notes or narratives.
2. Immunization records.
3. Results of communicable disease testing.

e. Corrections. A provider may correct the medical record before submitting a claim for reimbursement.

(1) Corrections must be made or authorized by the person who provided the service or by a person who has first-hand knowledge of the service.

(2) A correction to a medical record must not be written over or otherwise obliterate the original entry. A single line may be drawn through erroneous information, keeping the original entry legible. In the case of electronic records, the original information must be retained and retrievable.

(3) Any correction must indicate the person making the change and any other person authorizing the change, must be dated and signed by the person making the change, and must be clearly connected with the original entry in the record.

(4) If a correction made after a claim has been submitted affects the accuracy or validity of the claim, an amended claim must be submitted.

79.3(3) Maintenance requirement. The provider shall maintain records as required by this rule:

- a.* During the time the member is receiving services from the provider.
- b.* For a minimum of five years from the date when a claim for the service was submitted to the medical assistance program for payment.
- c.* As may be required by any licensing authority or accrediting body associated with determining the provider's qualifications.

79.3(4) Availability. Rescinded IAB 1/30/08, effective 4/1/08.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 7957B, IAB 7/15/09, effective 7/1/09; ARC 8262B, IAB 11/4/09, effective 12/9/09; ARC 9440B, IAB 4/6/11, effective 4/1/11; ARC 9487B, IAB 5/4/11, effective 7/1/11; ARC 0198C, IAB 7/11/12, effective 7/1/12; ARC 0358C, IAB 10/3/12, effective 11/7/12; ARC 0711C, IAB 5/1/13, effective 7/1/13]

441—79.4(249A) Reviews and audits.

79.4(1) Definitions.

“*Authorized representative*,” within the context of this rule, means the person appointed to carry out audit or review procedures, including assigned auditors, reviewers or agents contracted for specific audits, reviews, or audit or review procedures.

“*Claim*” means each record received by the department or the Iowa Medicaid enterprise that states the amount of requested payment and the service rendered by a specific and particular Medicaid provider to an eligible member.

“*Clinical record*” means a legible electronic or hard-copy history that documents the criteria established for medical records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a clinical record.

“*Confidence level*” means the statistical reliability of the sampling parameters used to estimate the proportion of payment errors (overpayment and underpayment) in the universe under review.

“*Customary and prevailing fee*” means a fee that is both (1) the most consistent charge by a Medicaid provider for a given service and (2) within the range of usual charges for a given service billed by most providers with similar training and experience in the state of Iowa.

“*Extrapolation*” means that the total amount of overpayment or underpayment will be determined by using sample data meeting the confidence level requirement.

“*Fiscal record*” means a legible electronic or hard-copy history that documents the criteria established for fiscal records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a fiscal record.

“*Overpayment*” means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to the Medicaid program and that results in a payment greater than that to which the provider is entitled.

“*Procedure code*” means the identifier that describes medical or remedial services performed or the supplies, drugs, or equipment provided.

“*Random sample*” means a statistically valid random sample for which the probability of selection for every item in the universe is known.

“*Underpayment*” means any payment or portion of a payment not made to a provider for services delivered to eligible members according to the laws and rules applicable to the Medicaid program and to which the provider is entitled.

“*Universe*” means all items or claims under review or audit during the period specified by the audit or review.

79.4(2) Audit or review of clinical and fiscal records by the department. Any Medicaid provider may be audited or reviewed at any time at the discretion of the department.

a. Authorized representatives of the department shall have the right, upon proper identification, to audit or review the clinical and fiscal records to determine whether:

- (1) The department has correctly paid claims for goods or services.
- (2) The provider has furnished the services to Medicaid members.
- (3) The provider has retained clinical and fiscal records that substantiate claims submitted for payment.

(4) The goods or services provided were in accordance with Iowa Medicaid policy.

b. Requests for provider records by the Iowa Medicaid enterprise program integrity unit shall include Form 470-4479, Documentation Checklist, which is available at www.ime.state.ia.us/Providers/Forms.html, listing the specific records that must be provided for the audit or review pursuant to paragraph 79.3(2)“d” to document the basis for services or activities provided.

c. Records generated and maintained by the department may be used by auditors or reviewers and in all proceedings of the department.

79.4(3) Audit or review procedures. The department will select the method of conducting an audit or review and will protect the confidential nature of the records being audited or reviewed. The provider may be required to furnish records to the department. Unless the department specifies otherwise, the provider may select the method of delivering any requested records to the department.

a. Upon a written request for records, the provider must submit all responsive records to the department or its authorized agent within 30 calendar days of the mailing date of the request, except as provided in paragraph "b."

b. Extension of time limit for submission.

(1) The department may grant an extension to the required submission date of up to 15 calendar days upon written request from the provider or the provider's designee. The request must:

1. Establish good cause for the delay in submitting the records; and
2. Be received by the department before the date the records are due to be submitted.

(2) For purposes of these rules, "good cause" has the same meaning as in Iowa Rule of Civil Procedure 1.977.

(3) The department may grant a request for an extension of the time limit for submitting records at its discretion. The department shall issue a written notice of its decision.

(4) The provider may appeal the department's denial of a request to extend the time limit for submission of requested records according to the procedures in 441—Chapter 7.

c. The department may elect to conduct announced or unannounced on-site reviews or audits. Records must be provided upon request and before the end of the on-site review or audit.

(1) For an announced on-site review or audit, the department's employee or authorized agent may give as little as one day's advance notice of the review or audit and the records and supporting documentation to be reviewed.

(2) Notice is not required for unannounced on-site reviews and audits.

(3) In an on-site review or audit, the conclusion of that review or audit shall be considered the end of the period within which to produce records.

d. Audit or review procedures may include, but are not limited to, the following:

(1) Comparing clinical and fiscal records with each claim.

(2) Interviewing members who received goods or services and employees of providers.

(3) Examining third-party payment records.

(4) Comparing Medicaid charges with private-patient charges to determine that the charge to Medicaid is not more than the customary and prevailing fee.

(5) Examining all documents related to the services for which Medicaid was billed.

e. Use of statistical sampling techniques. The department's procedures for auditing or reviewing Medicaid providers may include the use of random sampling and extrapolation.

(1) A statistically valid random sample will be selected from the universe of records to be audited or reviewed. The sample size shall be selected using accepted sample size estimation methods. The confidence level of the sample size calculation shall not be less than 95 percent.

(2) Following the sample audit or review, the statistical margin of error of the sample will be computed, and a confidence interval will be determined. The estimated error rate will be extrapolated to the universe from which the sample was drawn within the computed margin of error of the sampling process.

(3) Commonly accepted statistical analysis programs may be used to estimate the sample size and calculate the confidence interval, consistent with the sampling parameters.

(4) The audit or review findings generated through statistical sampling procedures shall constitute prima facie evidence in all department proceedings regarding the number and amount of overpayments or underpayments received by the provider.

f. Self-audit. The department may require a provider to conduct a self-audit and report the results of the self-audit to the department.

79.4(4) Preliminary report of audit or review findings. If the department concludes from an audit or review that an overpayment has occurred, the department will issue a preliminary finding of a tentative overpayment and inform the provider of the opportunity to request a reevaluation.

79.4(5) Disagreement with audit or review findings. If a provider disagrees with the preliminary finding of a tentative overpayment, the provider may request a reevaluation by the department and may present clarifying information and supplemental documentation.

a. Reevaluation request. A request for reevaluation must be submitted in writing within 15 calendar days of the date of the notice of the preliminary finding of a tentative overpayment. The request must specify the issues of disagreement.

(1) If the audit or review is being performed by the Iowa Medicaid enterprise surveillance and utilization review services unit, the request should be addressed to: IME SURS Unit, P.O. Box 36390, Des Moines, Iowa 50315.

(2) If the audit or review is being performed by any other departmental entity, the request should be addressed to: Iowa Department of Human Services, Attention: Fiscal Management Division, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

b. Additional information. A provider that has made a reevaluation request pursuant to paragraph “a” of this subrule may submit clarifying information or supplemental documentation that was not previously provided. This information must be received at the applicable address within 30 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider, except as provided in paragraph “c” of this subrule.

c. Disagreement with sampling results. When the department’s audit or review findings have been generated through sampling and extrapolation and the provider disagrees with the findings, the burden of proof of compliance rests with the provider. The provider may present evidence to show that the sample was invalid. The evidence may include a 100 percent audit or review of the universe of provider records used by the department in the drawing of the department’s sample. Any such audit or review must:

- (1) Be arranged and paid for by the provider.
- (2) Be conducted by an individual or organization with expertise in coding, medical services, and Iowa Medicaid policy if the issues relate to clinical records.
- (3) Be conducted by a certified public accountant if the issues relate to fiscal records.
- (4) Demonstrate that bills and records that were not audited or reviewed in the department’s sample are in compliance with program regulations.
- (5) Be submitted to the department with all supporting documentation within 60 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider.

79.4(6) Finding and order for repayment. Upon completion of a requested reevaluation or upon expiration of the time to request reevaluation, the department shall issue a finding and order for repayment of any overpayment and may immediately begin withholding payments on other claims to recover any overpayment.

79.4(7) Appeal by provider of care. A provider may appeal the finding and order of repayment and withholding of payments pursuant to 441—Chapter 7. However, an appeal shall not stay the withholding of payments or other action to collect the overpayment. Records not provided to the department during the review process set forth in subrule 79.4(3) or 79.4(5) shall not be admissible in any subsequent contested case proceeding arising out of a finding and order for repayment of any overpayment identified under subrule 79.4(6). This provision does not preclude providers that have provided records to the department during the review process set forth in subrule 79.4(3) or 79.4(5) from presenting clarifying information or supplemental documentation in the appeals process in order to defend against any overpayment identified under subrule 79.4(6). This provision is intended to minimize potential duplication of effort and delay in the audit or review process, minimize unnecessary appeals, and otherwise forestall fraud, waste, and abuse in the Iowa Medicaid program.

This rule is intended to implement Iowa Code section 249A.4.
[ARC 0712C, IAB 5/1/13, effective 7/1/13; ARC 1155C, IAB 10/30/13, effective 1/1/14]

441—79.5(249A) Nondiscrimination on the basis of handicap. All providers of service shall comply with Section 504 of the Rehabilitation Act of 1973 and Federal regulations 45 CFR Part 84, as amended to December 19, 1990, which prohibit discrimination on the basis of handicap in all Department of Health and Human Services funded programs.

This rule is intended to implement Iowa Code subsection 249A.4(6).

441—79.6(249A) Provider participation agreement. Providers of medical and health care wishing to participate in the program shall execute an agreement with the department on Form 470-2965, Agreement Between Provider of Medical and Health Services and the Iowa Department of Human Services Regarding Participation in Medical Assistance Program.

EXCEPTION: Dental providers are required to complete Form 470-3174, Addendum to Dental Provider Agreement for Orthodontia, to receive reimbursement under the early and periodic screening, diagnosis, and treatment program.

In these agreements, the provider agrees to the following:

79.6(1) To maintain clinical and fiscal records as specified in rule 441—79.3(249A).

79.6(2) That the charges as determined in accordance with the department's policy shall be the full and complete charge for the services provided and no additional payment shall be claimed from the recipient or any other person for services provided under the program.

79.6(3) That it is understood that payment in satisfaction of the claim will be from federal and state funds and any false claims, statements, or documents, or concealment of a material fact may be prosecuted under applicable federal and state laws.

This rule is intended to implement Iowa Code section 249A.4.

441—79.7(249A) Medical assistance advisory council.

79.7(1) Officers. Officers shall be a chairperson and a vice-chairperson.

a. The director of public health shall serve as chairperson of the council. Elections for vice-chairperson will be held the first meeting after the beginning of the calendar year.

b. The vice-chairperson's term of office shall be two years. A vice-chairperson shall serve no more than two terms.

c. The vice-chairperson shall serve in the absence of the chairperson.

d. The chairperson and vice-chairperson shall have the right to vote on any issue before the council.

e. The chairperson shall appoint a committee of not less than three members to nominate vice-chairpersons and shall appoint other committees approved by the council.

79.7(2) Membership. The membership of the council and its executive committee shall be as prescribed at Iowa Code section 249A.4B, subsections 2 and 3.

79.7(3) Expenses, staff support, and technical assistance. Expenses of the council and executive committee, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of human services. The department shall arrange for a meeting place, related services, and accommodations. The department shall provide staff support and independent technical assistance to the council and the executive committee.

79.7(4) Meetings. The council shall meet no more than quarterly. The executive committee shall meet on a monthly basis. Meetings may be called by the chairperson, upon written request of at least 50 percent of the members, or by the director of the department of human services.

a. Meetings shall be held in the Des Moines, Iowa, area, unless other notification is given.

b. Written notice of council meetings shall be mailed at least two weeks in advance of the meeting. Each notice shall include an agenda for the meeting.

79.7(5) Procedures.

a. A quorum shall consist of 50 percent of the voting members.

b. Where a quorum is present, a position is carried by two-thirds of the council members present.

c. Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member and to the executive office of each professional group or business entity represented.

d. Notice shall be given to a professional group or business entity represented on the council when the representative of that group or entity has been absent from three consecutive meetings.

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

79.7(6) Duties.

a. *Executive committee.* Based upon the deliberations of the medical assistance advisory council and the executive committee, the executive committee shall make recommendations to the director regarding the budget, policy, and administration of the medical assistance program. Such recommendations may include:

- (1) Recommendations on the reimbursement for medical services rendered by providers of services.
- (2) Identification of unmet medical needs and maintenance needs which affect health.
- (3) Recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.
- (4) Recommendations for ways in which needed medical supplies and services can be made available most effectively and economically to the program recipients.
- (5) Advice on such administrative and fiscal matters as the director of the department of human services may request.

b. *Council.* The medical assistance advisory council shall:

- (1) Advise the professional groups and business entities represented and act as liaison between them and the department.
- (2) Report at least annually to the professional groups and business entities represented.
- (3) Perform other functions as may be provided by state or federal law or regulation.
- (4) Communicate information considered by the council to the professional groups and business entities represented.

79.7(7) Responsibilities.

a. Recommendations of the council shall be advisory and not binding upon the department of human services or the professional groups and business entities represented. The director of the department of human services shall consider the recommendations offered by the council and the executive committee in:

- (1) The director's preparation of medical assistance budget recommendations to the council on human services, pursuant to Iowa Code section 217.3, and
- (2) Implementation of medical assistance program policies.

b. The council may choose subjects for consideration and recommendation. It shall consider all matters referred to it by the department of human services.

c. Any matter referred by a member organization or body shall be considered upon an affirmative vote of the council.

d. The department shall provide the council with reports, data, and proposed and final amendments to rules, laws, and guidelines, for its information, review, and comment.

e. The department shall present the annual budget for the medical assistance program for review and comment.

f. The department shall permit staff members to appear before the council to review and discuss specific information and problems.

g. The department shall maintain a current list of members on the council and executive committee.

[ARC 8263B, IAB 11/4/09, effective 12/9/09]

441—79.8(249A) Requests for prior authorization. When the Iowa Medicaid enterprise has not reached a decision on a request for prior authorization after 60 days from the date of receipt, the request will be approved.

79.8(1) Making the request.

a. Providers may submit requests for prior authorization for any items or procedures by mail or by facsimile transmission (fax) using Form 470-0829, Request for Prior Authorization, or electronically

using the Accredited Standards Committee (ASC) X12N 278 transaction, Health Care Services Request for Review and Response. Requests for prior authorization for drugs may also be made by telephone.

b. Providers shall send requests for prior authorization to the Iowa Medicaid enterprise. The request should address the relevant criteria applicable to the particular service, medication or equipment for which prior authorization is sought, according to rule 441—78.28(249A). Copies of history and examination results may be attached to rather than incorporated in the letter.

c. If a request for prior authorization submitted electronically requires attachments or supporting clinical documentation and a national electronic attachment has not been adopted, the provider shall:

(1) Use Form 470-3970, Prior Authorization Attachment Control, as the cover sheet for the paper attachments or supporting clinical documentation; and

(2) Reference on Form 470-3970 the attachment control number submitted on the ASC X12N 278 electronic transaction.

79.8(2) The policy applies to services or items specifically designated as requiring prior authorization.

79.8(3) The provider shall receive a notice of approval or denial for all requests.

a. In the case of prescription drugs, notices of approval or denial will be faxed to the prescriber and pharmacy.

b. Decisions regarding approval or denial will be made within 24 hours from the receipt of the prior authorization request. In cases where the request is received during nonworking hours, the time limit will be construed to start with the first hour of the normal working day following the receipt of the request.

79.8(4) Prior authorizations approved because a decision is not timely made shall not be considered a precedent for future similar requests.

79.8(5) Approved prior authorization applies to covered services and does not apply to the recipient's eligibility for medical assistance.

79.8(6) If a provider is unsure if an item or service is covered because it is rare or unusual, the provider may submit a request for prior approval in the same manner as other requests for prior approval in 79.8(1).

79.8(7) Requests for prior approval of services shall be reviewed according to rule 441—79.9(249A) and the conditions for payment as established by rule in 441—Chapter 78. Where ambiguity exists as to whether a particular item or service is covered, requests for prior approval shall be reviewed according to the following criteria in order of priority:

a. The conditions for payment outlined in the provider manual with reference to coverage and duration.

b. The determination made by the Medicare program unless specifically stated differently in state law or rule.

c. The recommendation to the department from the appropriate advisory committee.

d. Whether there are other less expensive procedures which are covered and which would be as effective.

e. The advice of an appropriate professional consultant.

79.8(8) The amount, duration and scope of the Medicaid program is outlined in 441—Chapters 78, 79, 81, 82 and 85. Additional clarification of the policies is available in the provider manual distributed and updated to all participating providers.

79.8(9) The Iowa Medicaid enterprise shall issue a notice of decision to the recipient upon a denial of request for prior approval pursuant to 441—Chapter 7. The Iowa Medicaid enterprise shall mail the notice of decision to the recipient within five working days of the date the prior approval form is returned to the provider.

79.8(10) If a request for prior approval is denied by the Iowa Medicaid enterprise, the request may be resubmitted for reconsideration with additional information justifying the request. The aggrieved party may file an appeal in accordance with 441—Chapter 7.

This rule is intended to implement Iowa Code section 249A.4.

441—79.9(249A) General provisions for Medicaid coverage applicable to all Medicaid providers and services.

79.9(1) Medicare definitions and policies shall apply to services provided unless specifically defined differently.

79.9(2) The services covered by Medicaid shall:

- a. Be consistent with the diagnosis and treatment of the patient's condition.
- b. Be in accordance with standards of good medical practice.
- c. Be required to meet the medical need of the patient and be for reasons other than the convenience of the patient or the patient's practitioner or caregiver.
- d. Be the least costly type of service which would reasonably meet the medical need of the patient.
- e. Be eligible for federal financial participation unless specifically covered by state law or rule.
- f. Be within the scope of the licensure of the provider.
- g. Be provided with the full knowledge and consent of the recipient or someone acting in the recipient's behalf unless otherwise required by law or court order or in emergency situations.
- h. Be supplied by a provider who is eligible to participate in the Medicaid program. The provider must use the billing procedures and documentation requirements described in 441—Chapters 78 and 80.

79.9(3) Providers shall supply all the same services to Medicaid eligibles served by the provider as are offered to other clients of the provider.

79.9(4) Recipients must be informed before the service is provided that the recipient will be responsible for the bill if a noncovered service is provided.

79.9(5) Coverage in public institutions. Medical services provided to a person while the person is an inmate of a public jail, prison, juvenile detention center, or other public penal institution of more than four beds are not covered by Medicaid.

79.9(6) The acceptance of Medicaid funds by means of a prospective or interim rate creates an express trust. The Medicaid funds received constitute the trust res. The trust terminates when the rate is retrospectively adjusted or otherwise finalized and, if applicable, any Medicaid funds determined to be owed are repaid in full to the department.

79.9(7) Medical assistance funds are incorrectly paid whenever a person who provided the service to the member for which the department paid was at the time service was provided the parent of a minor child, spouse, or legal representative of the member.

79.9(8) The rules of the medical assistance program shall not be construed to require payment of medical assistance funds, in whole or in part, directly or indirectly, overtly or covertly, for the provision of non-Medicaid services. The rules of the medical assistance program shall be interpreted in such a manner to minimize any risk that medical assistance funds might be used to subsidize services to persons other than members of the medical assistance program.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 1155C, IAB 10/30/13, effective 1/1/14]

441—79.10(249A) Requests for preadmission review. The inpatient hospitalization of Medicaid recipients is subject to preadmission review by the Iowa Medicaid enterprise (IME) medical services unit as required in rule 441—78.3(249A).

79.10(1) The patient's admitting physician, the physician's designee, or the hospital will contact the IME medical services unit to request approval of Medicaid coverage for the hospitalization, according to instructions issued to providers by the IME medical services unit and instructions in the Medicaid provider manual.

79.10(2) Medicaid payment will not be made to the hospital if the IME medical services unit denies the procedure requested in the preadmission review.

79.10(3) The IME medical services unit shall issue a letter of denial to the patient, the physician, and the hospital when a request is denied. The patient, the physician, or the hospital may request a reconsideration of the decision by filing a written request with the IME medical services unit within 60 days of the date of the denial letter.

79.10(4) The aggrieved party may appeal a denial of a request for reconsideration by the IME medical services unit according to 441—Chapter 7.

79.10(5) The requirement to obtain preadmission review is waived when the patient is enrolled in the managed health care option known as patient management and proper authorization for the admission has been obtained from the patient manager as described in 441—Chapter 88.

This rule is intended to implement Iowa Code section 249A.4.

441—79.11(249A) Requests for preprocedure surgical review. The Iowa Medicaid enterprise (IME) medical services unit conducts a preprocedure review of certain frequently performed surgical procedures to determine the necessity of the procedures and if Medicaid payment will be approved according to requirements found in 441—subrules 78.1(19), 78.3(18), and 78.26(3).

79.11(1) The physician must request approval from the IME medical services unit when the physician expects to perform a surgical procedure appearing on the department's preprocedure surgical review list published in the Medicaid provider manual. All requests for preprocedure surgical review shall be made according to instructions issued to physicians, hospitals and ambulatory surgical centers appearing in the Medicaid provider manual and instructions issued to providers by the IME medical services unit.

79.11(2) The IME medical services unit shall issue the physician a validation number for each request and shall advise whether payment for the procedure will be approved or denied.

79.11(3) Medicaid payment will not be made to the physician and other medical personnel or the facility in which the procedure is performed, i.e., hospital or ambulatory surgical center, if the IME medical services unit does not give approval.

79.11(4) The IME medical services unit shall issue a denial letter to the patient, the physician, and the facility when the requested procedure is not approved. The patient, the physician, or the facility may request a reconsideration of the decision by filing a written request with the IME medical services unit within 60 days of the date of the denial letter.

79.11(5) The aggrieved party may appeal a denial of a request for reconsideration by the IME medical services unit in accordance with 441—Chapter 7.

79.11(6) The requirement to obtain preprocedure surgical review is waived when the patient is enrolled in the managed health care option known as patient management and proper authorization for the procedure has been obtained from the patient manager as described in 441—Chapter 88.

This rule is intended to implement Iowa Code section 249A.4.

441—79.12(249A) Advance directives. “Advance directive” means a written instruction, such as a living will or durable power of attorney for health care, recognized under state law and related to the provision of health care when the person is incapacitated. All hospitals, home health agencies, home health providers of waiver services, hospice programs, and health maintenance organizations (HMOs) participating in Medicaid shall establish policies and procedures with respect to all adults receiving medical care through the provider or organization to comply with state law regarding advance directives as follows:

79.12(1) A hospital at the time of a person's admission as an inpatient, a home health care provider in advance of a person's coming under the care of the provider, a hospice provider at the time of initial receipt of hospice care by a person, and a health maintenance organization at the time of enrollment of the person with the organization shall provide written information to each adult which explains the person's rights under state law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives, and the provider's policies regarding the implementation of these rights.

79.12(2) The provider or organization shall document in the person's medical record whether or not the person has executed an advance directive.

79.12(3) The provider or organization shall not condition the provision of care or otherwise discriminate against a person based on whether or not the person has executed an advance directive.

79.12(4) The provider or organization shall ensure compliance with requirements of state law regarding advance directives.

79.12(5) The provider or organization shall provide for education for staff and the community on issues concerning advance directives.

Nothing in this rule shall be construed to prohibit the application of a state law which allows for an objection on the basis of conscience for any provider or organization which as a matter of conscience cannot implement an advance directive.

This rule is intended to implement Iowa Code section 249A.4.

441—79.13(249A) Requirements for enrolled Medicaid providers supplying laboratory services. Medicaid enrolled entities providing laboratory services are subject to the provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578, and implementing federal regulations published at 42 CFR Part 493 as amended to December 29, 2000. Medicaid payment shall not be afforded for services provided by an enrolled Medicaid provider supplying laboratory services that fails to meet these requirements. For the purposes of this rule, laboratory services are defined as services to examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or assessment of, the health of human beings.

This rule is intended to implement Iowa Code section 249A.4.

441—79.14(249A) Provider enrollment.

79.14(1) Application request. Iowa Medicaid providers other than managed care organizations and Medicaid fiscal agents shall begin the enrollment process by completing the appropriate application on the Iowa Medicaid enterprise Web site.

a. Providers of home- and community-based waiver services shall submit Form 470-2917, Medicaid HCBS Provider Application, at least 90 days before the planned service implementation date.

b. Providers enrolling as ordering or referring providers shall submit Form 470-5111, Iowa Medicaid Ordering/Referring Provider Enrollment Application.

c. All other providers shall submit Form 470-0254, Iowa Medicaid Provider Enrollment Application.

d. A nursing facility shall also complete the process set forth in 441—subrule 81.13(1).

e. An intermediate care facility for persons with an intellectual disability shall also complete the process set forth in 441—subrule 82.3(1).

79.14(2) Submittal of application. The provider shall submit the appropriate application forms, including the application fee, if required, to the Iowa Medicaid enterprise provider services unit by personal delivery, by e-mail, via online enrollment systems, or by mail to P.O. Box 36450, Des Moines, Iowa 50315.

a. The application shall include the provider's national provider identifier number or shall indicate that the provider is an atypical provider that is not issued a national provider identifier number.

b. With the application form, an assertive community treatment program shall submit Form 470-4842, Assertive Community Services (ACT) Provider Agreement Addendum, and agree to file with the department an annual report containing information to be used for rate setting, including:

(1) Data by practitioner on the utilization by Medicaid members of all the services included in assertive community treatment, and

(2) Cost information by practitioner type and by type of service actually delivered as part of assertive community treatment.

c. With the application form, or as a supplement to a previously submitted application, providers of health home services shall submit Form 470-5100, Health Home Provider Agreement.

d. Application fees.

(1) Providers who are enrolling or reenrolling in the Iowa Medicaid program shall submit an application fee with their application unless they are exempt as set forth in this paragraph.

(2) Fee amount. The application fee shall be in the amount prescribed by the Secretary of the U.S. Department of Health and Human Services (the Secretary) for the calendar year in which the application is submitted and in accordance with 42 U.S.C. 1395cc(j)(2)(C).

(3) Nonrefundable. The application fee is nonrefundable, except if submitted with one of the following:

1. A hardship exception request that is subsequently approved by the Secretary.

2. An application that is subsequently denied as a result of a temporary moratorium under 2013 Iowa Acts, Senate File 357, section 12.

3. An application or other transaction in which the application fee is not required.

(4) The process for enrolling or reenrolling a provider will not begin until the application fee has been received by the department or a hardship exception request has been approved by the Secretary.

(5) Exempt providers. The following providers shall not be required to submit an application fee:

1. Individual physicians or nonphysician practitioners.

2. Providers that are enrolled in Medicare, another state's Medicaid program or another state's children's health insurance program.

3. Providers that have paid the applicable application fee within 12 months of the date of application submission to a Medicare contractor or another state.

(6) All application fees collected shall be used for the costs associated with the screening procedures as described in subrule 79.14(4). Any unused portion of the application fees collected shall be returned to the federal government in accordance with 42 CFR § 455.460.

79.14(3) Program integrity information requirements.

a. All providers, including but not limited to managed care organizations and Medicaid fiscal agents, applying for participation in the Iowa Medicaid program must disclose all information required to be submitted pursuant to 42 CFR Part 455. In addition, all providers shall disclose any current, or previous, direct or indirect affiliation with a present or former Iowa Medicaid provider that:

(1) Has any uncollected debt owed to Medicaid or any other health care program funded by any governmental entity, including but not limited to the federal and state of Iowa governments;

(2) Has been or is subject to a payment suspension under a federally funded health care program;

(3) Has been excluded from participation under Medicaid, Medicare, or any other federally funded health care program;

(4) Has had its billing privileges denied or revoked;

(5) Has been administratively dissolved by the Iowa secretary of state, or similar action has been taken by a comparable agency in another state; or

(6) Shares a national provider identification (NPI) number or tax ID number with another provider that meets the criteria specified in subparagraph 79.14(3) "a" (1), (2), (3), (4), or (5).

b. The Iowa Medicaid enterprise may deny enrollment to a provider applicant or disenroll a current provider that has any affiliation as set forth in this rule if the department determines that the affiliation poses a risk of fraud, waste, or abuse. Such denial or disenrollment is appealable under 441—Chapter 7 but, notwithstanding any provision to the contrary in that chapter, the provider shall bear the burden to prove by clear and convincing evidence that the affiliation does not pose any risk of fraud, waste, or abuse.

c. For purposes of this rule, the term "direct or indirect affiliation" includes but is not limited to relationships between individuals, business entities, or a combination of the two. The term includes but is not limited to direct or indirect business relationships that involve:

(1) A compensation arrangement;

(2) An ownership arrangement;

(3) Managerial authority over any member of the affiliation;

(4) The ability of one member of the affiliation to control any other; or

(5) The ability of a third party to control any member of the affiliation.

79.14(4) Screening procedures and requirements. Providers applying for participation in the Iowa Medicaid program shall be subject to the "limited," "moderate," or "high" categorical risk screening procedures and requirements in accordance with 42 CFR §455.450.

a. For the types of providers that are recognized as a provider under the Medicare program, the Iowa Medicaid enterprise shall use the same categorical risk screening procedures and requirements assigned to that provider type by Medicare pursuant to 42 CFR §424.518.

b. Provider types not assigned a screening level by the Medicare program shall be subject to the procedures of the “limited” risk screening level pursuant to 42 CFR §455.450.

c. Adjustment of risk level. The Iowa Medicaid enterprise shall adjust the categorical risk screening procedures and requirements from “limited” or “moderate” to “high” when any of the following occurs:

(1) The Iowa Medicaid enterprise imposes a payment suspension on a provider based on a credible allegation of fraud, waste, or abuse; the provider has an existing Medicaid overpayment; or within the previous ten years, the provider has been excluded by the Office of the Inspector General or another state’s Medicaid program; or

(2) The Iowa Medicaid enterprise or the Centers for Medicare and Medicaid Services in the previous six months lifted a temporary moratorium for the particular provider type, and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within six months from the date the moratorium was lifted.

79.14(5) Notification. A provider shall be notified of the decision on the provider’s application within 30 calendar days of receipt by the Iowa Medicaid enterprise provider services unit of a complete and correct application with all required documents, including, but not limited to, if applicable, any application fees or screening results.

79.14(6) A provider that is not approved as the Medicaid provider type requested shall have the right to appeal under 441—Chapter 7.

79.14(7) Effective date of approval. An application shall be approved retroactive to the date requested by the provider or the date the provider meets the applicable participation criteria, whichever is later, not to exceed 12 months retroactive from the receipt of the application with all required documents by the Iowa Medicaid enterprise provider services unit.

79.14(8) A provider approved for certification as a Medicaid provider shall complete a provider participation agreement as required by rule 441—79.6(249A).

79.14(9) No payment shall be made to a provider for care or services provided prior to the effective date of the Iowa Medicaid enterprise’s approval of an application.

79.14(10) Payment rates dependent on the nature of the provider or the nature of the care or services provided shall be based on information on the application, together with information on claim forms, or on rates paid the provider prior to April 1, 1993.

79.14(11) An amendment to an application shall be submitted to the Iowa Medicaid enterprise provider services unit and shall be approved or denied within 30 calendar days. Approval of an amendment shall be retroactive to the date requested by the provider or the date the provider meets all applicable criteria, whichever is later, not to exceed 30 days prior to the receipt of the amendment by the Iowa Medicaid enterprise provider services unit. Denial of an amendment may be appealed under 441—Chapter 7.

79.14(12) A provider that has not submitted a claim in the last 24 months will be sent a notice asking if the provider wishes to continue participation. A provider that fails to reply to the notice within 30 calendar days of the date on the notice will be terminated as a provider. Providers that do not submit any claims in 48 months will be terminated as providers without further notification.

79.14(13) Report of changes. The provider shall inform the Iowa Medicaid enterprise of all pertinent changes to enrollment information within 35 days of the change. Pertinent changes include, but are not limited to, changes to the business entity name, individual provider name, tax identification number, mailing address, telephone number, or any information required to be disclosed by subrule 79.14(3).

a. When a provider reports false, incomplete, or misleading information on any application or reapplication, or fails to provide current information within the 35-day period, the Iowa Medicaid enterprise may immediately terminate the provider’s Medicaid enrollment. The termination may be appealed under 441—Chapter 7. Such termination remains in effect notwithstanding any pending appeal.

b. When the department incurs an informational tax-reporting fine or is required to repay the federal share of medical assistance paid to the provider because a provider submitted inaccurate information or failed to submit changes to the Iowa Medicaid enterprise in a timely manner, the fine or repayment shall be the responsibility of the individual provider to the extent that the fine or repayment relates to or arises out of the provider's failure to keep all provider information current.

(1) The provider shall remit the amount of the fine or repayment to the department within 30 days of notification by the department that the fine has been imposed.

(2) Payment of the fine or repayment may be appealed under 441—Chapter 7.

79.14(14) Provider termination or denial of enrollment. The Iowa Medicaid enterprise must terminate or deny any provider enrollment when the provider has violated any requirements identified in 42 CFR §455.416.

79.14(15) Temporary moratoria. The Iowa Medicaid enterprise must impose any temporary moratorium pursuant to 2013 Iowa Acts, Senate File 357, section 12.

79.14(16) Provider revalidation. Providers are required to complete the application process and screening requirements as detailed in this rule every five years.

79.14(17) Recoupment. A provider is strictly liable for any failure to disclose the information required by subrule 79.14(3) or any failure to report a change required by subrule 79.14(13). The department shall recoup as incorrectly paid all funds paid to the provider before a complete disclosure or report of change was made. The department shall also recoup as incorrectly paid all funds to any provider that billed the Iowa Medicaid enterprise while the provider was administratively dissolved by the Iowa secretary of state or comparable agency of another state, even if the provider subsequently obtains a retroactive reinstatement from the Iowa secretary of state or similar action was taken against the provider by a comparable agency of another state.

This rule is intended to implement Iowa Code section 249A.4.

[ARC 9440B, IAB 4/6/11, effective 4/1/11; ARC 0198C, IAB 7/11/12, effective 7/1/12; ARC 0580C, IAB 2/6/13, effective 4/1/13; ARC 1153C, IAB 10/30/13, effective 1/1/14]

441—79.15(249A) Education about false claims recovery. The provisions in this rule apply to any entity that has received medical assistance payments totaling at least \$5 million during a federal fiscal year (ending on September 30). For entities whose payments reach this threshold, compliance with this rule is a condition of receiving payments under the medical assistance program during the following calendar year.

79.15(1) Policy requirements. Any entity whose medical assistance payments meet the threshold shall:

a. Establish written policies for all employees of the entity and for all employees of any contractor or agent of the entity, including management, which provide detailed information about:

(1) The False Claims Act established under Title 31, United States Code, Sections 3729 through 3733;

(2) Administrative remedies for false claims and statements established under Title 31, United States Code, Chapter 38;

(3) Any state laws pertaining to civil or criminal penalties for false claims and statements;

(4) Whistle blower protections under the laws described in subparagraphs (1) to (3) with respect to the role of these laws in preventing and detecting fraud, waste, and abuse in federal health care programs, as defined in Title 42, United States Code, Section 1320a-7b(f); and

(5) The entity's policies and procedures for detecting and preventing fraud, waste, and abuse.

b. Include in any employee handbook a specific discussion of:

(1) The laws described in paragraph 79.15(1) "a";

(2) The rights of employees to be protected as whistle blowers; and

(3) The entity's policies and procedures for detecting and preventing fraud, waste, and abuse.

79.15(2) Reporting requirements.

a. Any entity whose medical assistance payments meet the specified threshold during a federal fiscal year shall provide the following information to the Iowa Medicaid enterprise by the following December 31:

- (1) The name, address, and national provider identification numbers under which the entity receives payment;
- (2) Copies of written or electronic policies that meet the requirements of subrule 79.15(1); and
- (3) A written description of how the policies are made available and disseminated to all employees of the entity and to all employees of any contractor or agent of the entity.

b. The information may be provided by:

- (1) Mailing the information to the IME Program Integrity Unit, P.O. Box 36390, Des Moines, Iowa 50315; or
- (2) Faxing the information to (515)725-1354.

79.15(3) Enforcement. Any entity that fails to comply with the requirements of this rule shall be subject to sanction under rule 441—79.2(249A), including probation, suspension or withholding of payments, and suspension or termination from participation in the medical assistance program.

This rule is intended to implement Iowa Code section 249A.4 and Public Law 109-171, Section 6032.

[ARC 9440B, IAB 4/6/11, effective 4/1/11]

441—79.16(249A) Electronic health record incentive program. The department has elected to participate in the electronic health record (EHR) incentive program authorized under Section 4201 of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law No. 111-5. The electronic health record incentive program provides incentive payments to eligible hospitals and professionals participating in the Iowa Medicaid program that adopt and successfully demonstrate meaningful use of certified electronic health record technology.

79.16(1) State elections. In addition to the statutory provisions in ARRA Section 4201, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as amended to September 4, 2012. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

a. For purposes of the term “hospital-based eligible professional (EP)” as set forth in 42 CFR Section 495.4 as amended to September 4, 2012, the department elects the calendar year preceding the payment year as the period used to gather data to determine whether or not an eligible professional is “hospital-based” for purposes of the regulation.

b. For purposes of calculating patient volume as required by 42 CFR Section 495.306 as amended to September 4, 2012, the department has elected that eligible providers may use either:

- (1) The patient encounter methodology found in 42 CFR Section 495.306(c) as amended to September 4, 2012, or
- (2) The patient panel methodology found in 42 CFR Section 495.306(d) as amended to September 4, 2012.

c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

79.16(2) Eligible providers. To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the applicable criterion in each paragraph of this subrule:

a. The provider must be currently enrolled as an Iowa Medicaid provider.

b. The provider must be one of the following:

- (1) An eligible professional, listed as:
 1. A physician,
 2. A dentist,
 3. A certified nurse midwife,

4. A nurse practitioner, or
5. A physician assistant practicing in a federally qualified health center or a rural health clinic when the physician assistant is the primary provider, clinical or medical director, or owner of the site.

(2) An acute care hospital, as defined in 42 CFR Section 495.302 as amended to September 4, 2012.

(3) A children's hospital, as defined in 42 CFR Section 495.302 as amended to September 4, 2012.

c. For the year for which the provider is applying for an incentive payment:

(1) An acute care hospital must have 10 percent Medicaid patient volume.

(2) An eligible professional must have at least 30 percent of the professional's patient volume enrolled in Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a "pediatrician" is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.

2. When a professional has at least 50 percent of patient encounters in a federally qualified health center or rural health clinic, patients who were furnished services either at no cost or at a reduced cost based on a sliding scale or ability to pay, patients covered by the HAWK-I program, and Medicaid members may be counted to meet the 30 percent threshold.

79.16(3) Application and agreement. Any eligible provider that intends to participate in the Iowa electronic health record incentive program must declare the intent to participate by registering with the CMS Registration and Attestation Web site, as developed by the Centers for Medicare and Medicaid Services (CMS). CMS will notify the department of an eligible provider's application for the incentive payment.

a. Upon receipt of an application for participation in the program, the department will contact the applicant with instructions for accessing the Iowa EHR Medicaid incentive payment administration Web site at www.imeincentives.com. The applicant shall use the Web site to:

(1) Attest to the applicant's qualifications to receive the incentive payment, and

(2) Digitally sign Form 470-4976, Iowa Electronic Health Record Incentive Program Provider Agreement.

b. For the second year of participation, eligible providers must submit meaningful use and clinical quality measures to the department, either through attestation or electronically as required by the department.

c. The department shall verify the applicant's eligibility, including patient volume and practice type, and the applicant's use of certified electronic health record technology.

79.16(4) Payment. The department shall issue the incentive payment only after confirming that all eligibility and performance criteria have been satisfied. Payments will be processed and paid to the tax identification number designated by the applicant. The department will communicate the payment or denial of payment to the CMS Registration and Attestation Web site.

a. The primary communication channel from the department to the provider will be the Iowa EHR Medicaid incentive payment administration Web site. If the department finds that the applicant is ineligible or has failed to achieve the criteria necessary for the payment, the department shall notify the provider through the Web site. Providers shall access the Web site to determine the status of their payment, including whether the department denied payment and the reason for the denial.

b. Providers must retain records supporting their eligibility for the incentive payment for a minimum of six years. The department will select providers for audit after issuance of an incentive payment. Incentive recipients shall cooperate with the department by providing proof of:

(1) Eligibility,

(2) Purchase of certified electronic health record technology, and

(3) Meaningful use of electronic health record technology.

79.16(5) Administrative appeal. Any eligible provider or any provider that claims to be an eligible provider and who has been subject to an adverse action related to the Iowa electronic health record incentive program may seek review of the department's action pursuant to 441—Chapter 7. Appealable issues include:

a. Provider eligibility determination.

b. Incentive payments.

c. Demonstration of adopting, implementing, upgrading and meaningful use of technology.

This rule is intended to implement Iowa Code section 249A.4 and Public Law No. 111-5.

[ARC 9254B, IAB 12/1/10, effective 1/1/11; ARC 9531B, IAB 6/1/11, effective 5/12/11; ARC 0824C, IAB 7/10/13, effective 9/1/13]

441—79.17(249A) 2013 reimbursement rate increases. Rescinded ARC 1056C, IAB 10/2/13, effective 11/6/13.

[Filed March 11, 1970]

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 3/25/77, Notice 12/1/76—published 4/20/77, effective 5/25/77]

[Filed 6/10/77, Notice 5/4/77—published 6/29/77, effective 8/3/77]

[Filed 10/24/77, Notice 9/7/77—published 11/16/77, effective 12/21/77]

[Filed 12/6/77, Notice 10/19/77—published 12/28/77, effective 2/1/78]

[Filed 1/16/78, Notice 11/30/77—published 2/8/78, effective 4/1/78]

[Filed 8/9/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]

[Filed 10/10/78, Notice 7/26/78—published 11/1/78, effective 12/6/78]

[Filed 3/30/79, Notice 2/21/79—published 4/18/79, effective 5/23/79]

[Filed 9/6/79, Notice 7/11/79—published 10/3/79, effective 11/7/79]

[Filed 12/5/79, Notice 10/3/79—published 12/26/79, effective 1/30/80]

[Filed emergency 6/30/80—published 7/23/80, effective 7/1/80]

[Filed 11/21/80, Notice 9/3/80—published 12/10/80, effective 1/14/81]

[Filed 3/24/81, Notice 2/4/81—published 4/15/81, effective 6/1/81]

[Filed emergency 4/23/81—published 5/13/81, effective 4/23/81]

[Filed 8/24/81, Notice 3/4/81—published 9/16/81, effective 11/1/81]

[Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]

[Filed emergency 3/26/82—published 4/14/82, effective 4/1/82]

[Filed emergency 5/21/82—published 6/9/82, effective 7/1/82]

[Filed 7/30/82, Notice 6/9/82—published 8/18/82, effective 10/1/82]

[Filed emergency 8/20/82 after Notice of 6/23/82—published 9/15/82, effective 10/1/82]

[Filed 11/19/82, Notice 9/29/82—published 12/8/82, effective 2/1/83]

[Filed 2/25/83, Notice 1/5/83—published 3/16/83, effective 5/1/83]

[Filed 5/20/83, Notice 3/30/83—published 6/8/83, effective 8/1/83]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 10/7/83—published 10/26/83, effective 11/1/83]

[Filed without Notice 10/7/83—published 10/26/83, effective 12/1/83]

[Filed emergency 10/28/83—published 11/23/83, effective 12/1/83]

[Filed emergency 11/18/83—published 12/7/83, effective 12/1/83]

[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 2/1/84]

[Filed 1/13/84, Notice 11/23/84—published 2/1/84, effective 3/7/84]

[Filed 2/10/84, Notice 12/7/83—published 2/29/84, effective 5/1/84]

[Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]

[Filed 6/15/84, Notice 5/9/84—published 7/4/84, effective 9/1/84]

[Filed emergency after Notice 11/1/84, Notice 7/18/84—published 11/21/84, effective 11/1/84]

[Filed 4/29/85, Notice 2/27/85—published 5/22/85, effective 7/1/85]

[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]

[Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 11/1/85]

[Filed emergency 10/1/85—published 10/23/85, effective 11/1/85]

[Filed without Notice 10/1/85—published 10/23/85, effective 12/1/85]

[Filed emergency 12/2/85—published 12/18/85, effective 1/1/86]

[Filed 12/2/85, Notice 10/9/85—published 12/18/85, effective 2/1/86]

[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 2/1/86]

[Filed 1/22/86, Notice 12/4/85—published 2/12/86, effective 4/1/86]

- [Filed 2/21/86, Notices 12/18/85, 1/15/86—published 3/12/86, effective 5/1/86]
 - [Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]
- [Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
 - [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed 3/3/87, Notice 12/31/86—published 3/25/87, effective 5/1/87]
- [Filed 4/29/87, Notice 3/11/87—published 5/20/87, effective 7/1/87]
 - [Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
- [Filed 7/24/87, Notice 5/20/87—published 8/12/87, effective 10/1/87]
 - [Filed emergency 8/28/87—published 9/23/87, effective 9/1/87]
- [Filed 10/23/87, Notice 7/15/87—published 11/18/87, effective 1/1/88]
- [Filed 10/23/87, Notice 8/26/87—published 11/18/87, effective 1/1/88]
- [Filed without Notice 11/25/87—published 12/16/87, effective 2/1/88]
- [Filed 11/30/87, Notice 10/7/87—published 12/16/87, effective 2/1/88]
- [Filed 12/10/87, Notice 10/21/87—published 12/30/87, effective 3/1/88]¹
 - [Filed 1/21/88, Notice 12/16/87—published 2/10/88, effective 4/1/88]
- [Filed emergency 4/28/88 after Notice 3/23/88—published 5/18/88, effective 6/1/88]
 - [Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]^o
 - [Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]
 - [Filed emergency 10/28/88—published 11/16/88, effective 11/1/88]
- [Filed emergency 11/23/88 after Notices 7/13/88, 9/21/88—published 12/14/88, effective 12/1/88, 1/1/89]
- [Filed emergency 12/22/88 after Notice of 11/16/88—published 1/11/89, effective 1/1/89]
 - [Filed 12/22/88, Notices 11/16/88^o—published 1/11/89, effective 3/1/89]
 - [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
 - [Filed 7/14/89, Notice 4/19/89—published 8/9/89, effective 10/1/89]
 - [Filed 8/17/89, Notice 6/28/89—published 9/6/89, effective 11/1/89]
 - [Filed 9/15/89, Notice 8/9/89—published 10/4/89, effective 12/1/89]
- [Filed emergency 1/10/90 after Notice of 10/4/89—published 1/10/90, effective 1/1/90]
 - [Filed 1/17/90, Notice 8/23/90—published 2/7/90, effective 4/1/90]²
 - [Filed emergency 2/14/90—published 3/7/90, effective 4/1/90]
- [Filed 4/13/90, Notices 2/21/90, 3/7/90—published 5/2/90, effective 7/1/90]
 - [Filed 4/13/90, Notice 11/29/89—published 5/2/90, effective 8/1/90]
 - [Filed emergency 5/11/90—published 5/30/90, effective 6/1/90]
 - [Filed 5/11/90, Notice 4/4/90—published 5/30/90, effective 8/1/90]
- [Filed emergency 6/14/90 after Notice 5/2/90—published 7/11/90, effective 7/1/90]
 - [Filed emergency 6/20/90—published 7/11/90, effective 7/1/90]
 - [Filed 7/13/90, Notice 5/30/90—published 8/8/90, effective 10/1/90]
 - [Filed 8/16/90, Notices 7/11/90^o—published 9/5/90, effective 11/1/90]
 - [Filed 10/12/90, Notice 8/8/90—published 10/31/90, effective 2/1/91]
- [Filed emergency 1/17/91 after Notice 11/28/90—published 2/6/91, effective 2/1/91]
 - [Filed emergency 1/17/91—published 2/6/91, effective 2/1/91]
- [Filed 1/17/91, Notices 11/14/90, 11/28/90—published 2/6/91, effective 4/1/91]
 - [Filed emergency 2/22/91—published 3/20/91, effective 3/1/91]
 - [Filed 3/14/91, Notice 2/6/91—published 4/3/91, effective 6/1/91]
 - [Filed 5/17/91, Notice 4/3/91—published 6/12/91, effective 8/1/91]
 - [Filed emergency 6/14/91—published 7/10/91, effective 7/1/91]
- [Filed 6/14/91, Notices 3/20/91, 5/1/91—published 7/10/91, effective 9/1/91]³
 - [Filed 7/10/91, Notice 5/29/91—published 8/7/91, effective 10/1/91]
- [Filed emergency 9/18/91 after Notice 7/24/91—published 10/16/91, effective 10/1/91]
 - [Filed 9/18/91, Notices 7/10/91, 7/24/91—published 10/16/91, effective 12/1/91]
 - [Filed 12/11/91, Notice 10/16/91—published 1/8/92, effective 3/1/92]
 - [Filed 12/11/91, Notice 10/30/91—published 1/8/92, effective 3/1/92]

- [Filed emergency 1/16/92 after Notice 11/27/91—published 2/5/92, effective 3/1/92]⁴
 - [Filed 2/13/92, Notice 1/8/92—published 3/4/92, effective 4/8/92]
 - [Filed emergency 4/15/92—published 5/13/92, effective 4/16/92]
- [Filed emergency 5/13/92 after Notice 4/1/92—published 6/10/92, effective 5/14/92]
 - [Filed emergency 6/12/92—published 7/8/92, effective 7/1/92]
- [Filed 6/11/92, Notices 3/18/92, 4/29/92—published 7/8/92, effective 9/1/92]
 - [Filed without Notice 6/11/92—published 7/8/92, effective 9/1/92]
 - [Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 11/1/92]
 - [Filed emergency 9/11/92—published 9/30/92, effective 10/1/92]
 - [Filed 9/11/92, Notice 7/8/92—published 9/30/92, effective 12/1/92]
 - [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
 - [Filed 11/10/92, Notice 9/30/92—published 12/9/92, effective 2/1/93]
- [Filed emergency 12/30/92 after Notice 11/25/92—published 1/20/93, effective 1/1/93]
 - [Filed 1/14/93, Notice 11/11/92—published 2/3/93, effective 4/1/93]
 - [Filed 3/11/93, Notice 1/20/93—published 3/31/93, effective 6/1/93]
 - [Filed 4/15/93, Notice 3/3/93—published 5/12/93, effective 7/1/93]
- [Filed emergency 5/14/93 after Notice 3/31/93—published 6/9/93, effective 6/1/93]
 - [Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]
 - [Filed emergency 6/11/93—published 7/7/93, effective 7/1/93]
 - [Filed 6/11/93, Notice 4/28/93—published 7/7/93, effective 9/1/93]
 - [Filed emergency 6/25/93—published 7/21/93, effective 7/1/93]
- [Filed emergency 7/13/93 after Notice 5/12/93—published 8/4/93, effective 8/1/93]
 - [Filed without Notice 8/12/93—published 9/1/93, effective 11/1/93]
- [Filed 8/12/93, Notices 4/28/93, 7/7/93—published 9/1/93, effective 11/1/93]
 - [Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 12/1/93]
 - [Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
 - [Filed 11/12/93, Notice 9/29/93—published 12/8/93, effective 2/1/94]
 - [Filed 12/16/93, Notice 9/1/93—published 1/5/94, effective 3/1/94]
 - [Filed 1/12/94, Notice 11/10/93—published 2/2/94, effective 4/1/94]
- [Filed 3/10/94, Notices 1/19/94, 2/2/94—published 3/30/94, effective 6/1/94][◇]
 - [Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]
 - [Filed 9/15/94, Notice 7/6/94—published 10/12/94, effective 12/1/94]
 - [Filed 11/9/94, Notice 9/14/94—published 12/7/94, effective 2/1/95]
- [Filed 12/15/94, Notices 10/12/94, 11/9/94—published 1/4/95, effective 3/1/95]
 - [Filed 3/20/95, Notice 2/1/95—published 4/12/95, effective 6/1/95]
 - [Filed 5/11/95, Notice 3/29/95—published 6/7/95, effective 8/1/95]
 - [Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]
 - [Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]
- [Filed 11/16/95, Notices 8/2/95, 9/27/95—published 12/6/95, effective 2/1/96][◇]
 - [Filed 5/15/96, Notice 2/14/96—published 6/5/96, effective 8/1/96]
 - [Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]
 - [Filed 7/10/96, Notice 6/5/96—published 7/31/96, effective 10/1/96]
 - [Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
 - [Filed 9/17/96, Notice 7/31/96—published 10/9/96, effective 12/1/96]
 - [Filed 11/13/96, Notice 9/11/96—published 12/4/96, effective 2/1/97]
 - [Filed 2/12/97, Notice 12/18/96—published 3/12/97, effective 5/1/97]
- [Filed 3/12/97, Notices 1/1/97, 1/29/97—published 4/9/97, effective 6/1/97]
 - [Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
- [Filed emergency 5/14/97 after Notice 3/12/97—published 6/4/97, effective 7/1/97]
 - [Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
 - [Filed 6/12/97, Notice 4/23/97—published 7/2/97, effective 9/1/97]
 - [Filed 9/16/97, Notice 7/2/97—published 10/8/97, effective 12/1/97]

- [Filed emergency 11/12/97—published 12/3/97, effective 11/12/97]
- [Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
- [Filed 1/14/98, Notices 11/19/97, 12/3/97—published 2/11/98, effective 4/1/98]
- [Filed 3/11/98, Notice 1/14/98—published 4/8/98, effective 6/1/98]
- [Filed 4/8/98, Notice 2/11/98—published 5/6/98, effective 7/1/98]
- [Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
- [Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
- [Filed 9/15/98, Notice 7/15/98—published 10/7/98, effective 12/1/98]
- [Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 2/1/99]
- [Filed 1/13/99, Notice 11/4/98—published 2/10/99, effective 4/1/99]
- [Filed 2/10/99, Notice 12/16/98—published 3/10/99, effective 5/1/99]
- [Filed 4/15/99, Notice 2/10/99—published 5/5/99, effective 7/1/99]
- [Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
- [Filed 6/10/99, Notice 5/5/99—published 6/30/99, effective 9/1/99]
- [Filed 7/15/99, Notice 5/19/99—published 8/11/99, effective 10/1/99]
- [Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
- [Filed 11/10/99, Notice 9/22/99—published 12/1/99, effective 2/1/00]
- [Filed 4/12/00, Notice 2/9/00—published 5/3/00, effective 7/1/00]
- [Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
- [Filed 6/8/00, Notice 4/19/00—published 6/28/00, effective 8/2/00]
- [Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
- [Filed emergency 9/12/00 after Notice 7/26/00—published 10/4/00, effective 10/1/00]
- [Filed 9/12/00, Notice 6/14/00—published 10/4/00, effective 12/1/00]
- [Filed 10/11/00, Notice 8/23/00—published 11/1/00, effective 1/1/01]
- [Filed 11/8/00, Notice 9/20/00—published 11/29/00, effective 2/1/01]
- [Filed emergency 12/14/00 after Notice 9/20/00—published 1/10/01, effective 1/1/01]
- [Filed 12/14/00, Notice 11/1/00—published 1/10/01, effective 3/1/01]
- [Filed 2/14/01, Notice 12/13/00—published 3/7/01, effective 5/1/01]
- [Filed 5/9/01, Notice 4/4/01—published 5/30/01, effective 8/1/01]
- [Filed emergency 6/13/01 after Notice 4/18/01—published 7/11/01, effective 7/1/01]
- [Filed emergency 6/13/01—published 7/11/01, effective 7/1/01][◊]
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed 7/11/01, Notice 5/16/01—published 8/8/01, effective 10/1/01]
- [Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01]
- [Filed 10/10/01, Notice 8/22/01—published 10/31/01, effective 1/1/02][◊]
- [Filed 11/14/01, Notice 10/3/01—published 12/12/01, effective 2/1/02]
- [Filed emergency 1/9/02 after Notice 11/14/01—published 2/6/02, effective 2/1/02]
- [Filed emergency 1/16/02—published 2/6/02, effective 2/1/02]⁵
- [Filed 3/13/02, Notice 1/23/02—published 4/3/02, effective 6/1/02]
- [Filed emergency 4/12/02—published 5/1/02, effective 4/12/02]
- [Filed 4/10/02, Notice 1/9/02—published 5/1/02, effective 7/1/02]
- [Filed 4/10/02, Notice 2/6/02—published 5/1/02, effective 7/1/02]
- [Filed 7/15/02, Notice 5/1/02—published 8/7/02, effective 10/1/02]⁶
- [Filed 7/15/02, Notice 5/29/02—published 8/7/02, effective 10/1/02]
- [Filed 8/15/02, Notice 6/12/02—published 9/4/02, effective 11/1/02]
- [Filed 8/15/02, Notice 6/26/02—published 9/4/02, effective 11/1/02]
- [Filed emergency 9/12/02—published 10/2/02, effective 9/12/02]
- [Filed emergency 11/18/02—published 12/11/02, effective 12/1/02]
- [Filed 11/18/02, Notice 10/2/02—published 12/11/02, effective 2/1/03]
- [Filed emergency 12/12/02 after Notice 10/16/02—published 1/8/03, effective 1/1/03]
- [Filed 2/13/03, Notice 12/11/02—published 3/5/03, effective 5/1/03]
- [Filed 5/16/03, Notice 4/2/03—published 6/11/03, effective 7/16/03]⁸

- [Filed emergency 6/12/03—published 7/9/03, effective 7/1/03]◊
- [Filed 9/22/03, Notice 7/9/03—published 10/15/03, effective 12/1/03]◊
- [Filed 10/10/03, Notice 8/20/03—published 10/29/03, effective 1/1/04]
- [Filed 3/11/04, Notice 1/21/04—published 3/31/04, effective 6/1/04]
- [Filed emergency 6/14/04 after Notice 4/28/04—published 7/7/04, effective 7/1/04]
- [Filed emergency 6/14/04—published 7/7/04, effective 7/1/04]◊
- [Filed 8/12/04, Notice 6/23/04—published 9/1/04, effective 11/1/04]
- [Filed 9/23/04, Notice 7/7/04—published 10/13/04, effective 11/17/04]◊
- [Filed emergency 4/15/05—published 5/11/05, effective 5/1/05]
- [Filed without Notice 5/4/05—published 5/25/05, effective 7/1/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 6/25/05]
- [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]◊
- [Filed emergency 9/21/05—published 10/12/05, effective 10/1/05]
- [Filed emergency 10/21/05 after Notice 7/6/05—published 11/9/05, effective 10/21/05]
- [Filed 10/21/05, Notices 5/11/05 and 7/6/05◊—published 11/9/05, effective 12/14/05]
- [Filed 10/21/05, Notice 7/6/05—published 11/9/05, effective 12/14/05]
- [Filed 3/10/06, Notice 10/12/05—published 3/29/06, effective 5/3/06]
- [Filed 4/17/06, Notice 2/15/06—published 5/10/06, effective 7/1/06]
- [Filed emergency 6/16/06—published 7/5/06, effective 7/1/06]
- [Filed 6/16/06, Notice 4/26/06—published 7/5/06, effective 9/1/06]
- [Filed emergency 8/10/06 after Notice 3/15/06—published 8/30/06, effective 10/1/06]
- [Filed 8/10/06, Notice 2/15/06—published 8/30/06, effective 11/1/06]
- [Filed emergency 9/14/06—published 10/11/06, effective 10/1/06]
- [Filed 9/19/06, Notice 7/5/06—published 10/11/06, effective 11/16/06]
- [Filed emergency 10/12/06 after Notice 8/30/06—published 11/8/06, effective 11/1/06]
- [Filed emergency 12/13/06—published 1/3/07, effective 1/1/07]
- [Filed 2/15/07, Notice 12/20/06—published 3/14/07, effective 5/1/07]
- [Filed emergency 3/14/07 after Notice 1/3/07—published 4/11/07, effective 4/1/07]
- [Filed 3/14/07, Notice 10/11/06—published 4/11/07, effective 5/16/07]
- [Filed 7/12/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]
- [Filed emergency 8/9/07 after Notice 7/4/07—published 8/29/07, effective 8/10/07]
- [Filed 8/9/07, Notice 7/4/07—published 8/29/07, effective 10/3/07]
- [Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 11/1/07]
- [Filed 9/12/07, Notice 7/4/07—published 10/10/07, effective 11/14/07]
- [Filed emergency 10/10/07—published 11/7/07, effective 10/10/07]
- [Filed 1/9/08, Notice 11/7/07—published 1/30/08, effective 3/5/08]
- [Filed 1/9/08, Notice 11/7/07—published 1/30/08, effective 4/1/08]
- [Filed emergency 5/14/08 after Notice 3/26/08—published 6/4/08, effective 6/1/08]
- [Filed emergency 6/11/08 after Notice 3/12/08—published 7/2/08, effective 7/1/08]
- [Filed emergency 6/12/08—published 7/2/08, effective 7/1/08]
- [Filed 9/17/08, Notice 7/2/08—published 10/8/08, effective 11/12/08]
- [Filed emergency 10/14/08 after Notice 7/16/08—published 11/5/08, effective 12/1/08]
- [Filed 12/11/08, Notice 10/22/08—published 1/14/09, effective 3/1/09]
- [Filed ARC 7835B (Notice ARC 7627B, IAB 3/11/09), IAB 6/3/09, effective 7/8/09]
- [Filed Emergency ARC 7937B, IAB 7/1/09, effective 7/1/09]
- [Filed Emergency After Notice ARC 7957B (Notice ARC 7631B, IAB 3/11/09; Amended Notice ARC 7732B, IAB 4/22/09), IAB 7/15/09, effective 7/1/09]⁷
- [Filed ARC 8205B (Notice ARC 7827B, IAB 6/3/09), IAB 10/7/09, effective 11/11/09]
- [Filed ARC 8206B (Notice ARC 7938B, IAB 7/1/09), IAB 10/7/09, effective 11/11/09]
- [Filed ARC 8262B (Notice ARC 8084B, IAB 8/26/09), IAB 11/4/09, effective 12/9/09]
- [Filed ARC 8263B (Notice ARC 8059B, IAB 8/26/09), IAB 11/4/09, effective 12/9/09]
- [Filed Emergency ARC 8344B, IAB 12/2/09, effective 12/1/09]

- [Filed Emergency ARC 8647B, IAB 4/7/10, effective 3/11/10]
[Filed Emergency ARC 8649B, IAB 4/7/10, effective 3/11/10]
[Filed Emergency After Notice ARC 8643B (Notice ARC 8345B, IAB 12/2/09), IAB 4/7/10, effective 3/11/10]
[Filed Emergency ARC 8894B, IAB 6/30/10, effective 7/1/10]
[Filed Emergency ARC 8899B, IAB 6/30/10, effective 7/1/10]
[Filed Emergency ARC 9046B, IAB 9/8/10, effective 8/12/10]
[Filed ARC 9127B (Notice ARC 8896B, IAB 6/30/10), IAB 10/6/10, effective 11/10/10]
[Filed Emergency ARC 9134B, IAB 10/6/10, effective 10/1/10]
[Filed Emergency ARC 9132B, IAB 10/6/10, effective 11/1/10]
[Filed ARC 9176B (Notice ARC 8900B, IAB 6/30/10), IAB 11/3/10, effective 12/8/10]
[Filed Emergency ARC 9254B, IAB 12/1/10, effective 1/1/11]
[Filed ARC 9316B (Notice ARC 9133B, IAB 10/6/10), IAB 12/29/10, effective 2/2/11]
[Filed ARC 9403B (Notice ARC 9170B, IAB 10/20/10), IAB 3/9/11, effective 5/1/11]
[Filed Emergency After Notice ARC 9440B (Notice ARC 9276B, IAB 12/15/10), IAB 4/6/11, effective 4/1/11]
[Filed ARC 9487B (Notice ARC 9399B, IAB 2/23/11), IAB 5/4/11, effective 7/1/11]
[Filed Emergency After Notice ARC 9531B (Notice ARC 9431B, IAB 3/23/11), IAB 6/1/11, effective 5/12/11]
[Filed ARC 9588B (Notice ARC 9367B, IAB 2/9/11; Amended Notice ARC 9448B, IAB 4/6/11), IAB 6/29/11, effective 9/1/11]
[Filed Emergency ARC 9706B, IAB 9/7/11, effective 8/17/11]
[Filed Emergency ARC 9708B, IAB 9/7/11, effective 8/17/11]
[Filed Emergency ARC 9710B, IAB 9/7/11, effective 8/17/11]
[Filed Emergency ARC 9704B, IAB 9/7/11, effective 9/1/11]
[Filed Emergency ARC 9712B, IAB 9/7/11, effective 9/1/11]
[Filed Emergency ARC 9714B, IAB 9/7/11, effective 9/1/11]
[Filed Emergency ARC 9719B, IAB 9/7/11, effective 9/1/11]
[Filed Emergency ARC 9722B, IAB 9/7/11, effective 9/1/11]
[Filed ARC 9884B (Notice ARC 9705B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 9886B (Notice ARC 9713B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 9887B (Notice ARC 9715B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]
[Filed ARC 9958B (Notice ARC 9707B, IAB 9/7/11), IAB 1/11/12, effective 2/15/12]
[Filed ARC 9959B (Notice ARC 9721B, IAB 9/7/11), IAB 1/11/12, effective 2/15/12]
[Filed ARC 9960B (Notice ARC 9723B, IAB 9/7/11), IAB 1/11/12, effective 2/15/12]
[Filed Emergency ARC 9996B, IAB 2/8/12, effective 1/19/12]
[Filed ARC 0028C (Notice ARC 9711B, IAB 9/7/11), IAB 3/7/12, effective 4/11/12]
[Filed ARC 0029C (Notice ARC 9709B, IAB 9/7/11), IAB 3/7/12, effective 4/11/12]
[Nullified amendment editorially removed, IAC Supplement 5/16/12]⁸
[Filed Emergency ARC 0191C, IAB 7/11/12, effective 7/1/12]
[Filed Emergency ARC 0194C, IAB 7/11/12, effective 7/1/12]
[Filed Emergency ARC 0196C, IAB 7/11/12, effective 7/1/12]
[Filed Emergency After Notice ARC 0198C (Notice ARC 0117C, IAB 5/2/12), IAB 7/11/12, effective 7/1/12]
[Filed ARC 0358C (Notice ARC 0231C, IAB 7/25/12), IAB 10/3/12, effective 11/7/12]
[Filed ARC 0359C (Notice ARC 0193C, IAB 7/11/12), IAB 10/3/12, effective 12/1/12]
[Filed ARC 0354C (Notice ARC 0195C, IAB 7/11/12), IAB 10/3/12, effective 12/1/12]
[Filed ARC 0355C (Notice ARC 0197C, IAB 7/11/12), IAB 10/3/12, effective 12/1/12]
[Filed ARC 0360C (Notice ARC 0203C, IAB 7/11/12), IAB 10/3/12, effective 12/1/12]
[Filed ARC 0485C (Notice ARC 0259C, IAB 8/8/12), IAB 12/12/12, effective 2/1/13]
[Filed ARC 0545C (Notice ARC 0366C, IAB 10/3/12), IAB 1/9/13, effective 3/1/13]
[Filed Emergency ARC 0548C, IAB 1/9/13, effective 1/1/13]

[Filed ARC 0580C (Notice ARC 0434C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
 [Filed ARC 0581C (Notice ARC 0436C, IAB 10/31/12), IAB 2/6/13, effective 4/1/13]
 [Filed Emergency ARC 0585C, IAB 2/6/13, effective 1/9/13]
 [Filed ARC 0665C (Notice ARC 0547C, IAB 1/9/13), IAB 4/3/13, effective 6/1/13]
 [Filed ARC 0708C (Notice ARC 0568C, IAB 1/23/13), IAB 5/1/13, effective 7/1/13]
 [Filed ARC 0711C (Notice ARC 0570C, IAB 1/23/13), IAB 5/1/13, effective 7/1/13]
 [Filed ARC 0712C (Notice ARC 0569C, IAB 1/23/13), IAB 5/1/13, effective 7/1/13]
 [Filed ARC 0710C (Notice ARC 0588C, IAB 2/6/13), IAB 5/1/13, effective 7/1/13]
 [Filed ARC 0713C (Notice ARC 0584C, IAB 2/6/13), IAB 5/1/13, effective 7/1/13]
 [Filed ARC 0757C (Notice ARC 0615C, IAB 2/20/13), IAB 5/29/13, effective 8/1/13]
 [Filed ARC 0823C (Notice ARC 0649C, IAB 3/20/13), IAB 7/10/13, effective 9/1/13]
 [Filed ARC 0824C (Notice ARC 0669C, IAB 4/3/13), IAB 7/10/13, effective 9/1/13]
 [Filed Emergency After Notice ARC 0838C (Notice ARC 0667C, IAB 4/3/13; Amended Notice ARC 0748C, IAB 5/15/13), IAB 7/24/13, effective 7/1/13]
 [Filed Emergency ARC 0840C, IAB 7/24/13, effective 7/1/13]
 [Filed Emergency ARC 0842C, IAB 7/24/13, effective 7/1/13]
 [Filed Emergency ARC 0848C, IAB 7/24/13, effective 7/1/13]
 [Filed Emergency ARC 0864C, IAB 7/24/13, effective 7/1/13]
 [Filed ARC 0994C (Notice ARC 0789C, IAB 6/12/13), IAB 9/4/13, effective 11/1/13]
 [Filed Emergency After Notice ARC 1071C (Notice ARC 0887C, IAB 7/24/13), IAB 10/2/13, effective 10/1/13]
 [Filed ARC 1058C (Notice ARC 0863C, IAB 7/24/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1057C (Notice ARC 0839C, IAB 7/24/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1056C (Notice ARC 0841C, IAB 7/24/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1051C (Notice ARC 0847C, IAB 7/24/13), IAB 10/2/13, effective 11/6/13]
 [Filed ARC 1150C (Notice ARC 0918C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1152C (Notice ARC 0910C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1154C (Notice ARC 0919C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1155C (Notice ARC 0912C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1153C (Notice ARC 0917C, IAB 8/7/13), IAB 10/30/13, effective 1/1/14]
 [Filed ARC 1481C (Notice ARC 1391C, IAB 4/2/14), IAB 6/11/14, effective 8/1/14]

⁰ Two or more ARCs

¹ Effective date of 79.1(2) and 79.1(5)“t” delayed 70 days by the Administrative Rules Review Committee at its January 1988, meeting.

² Effective date of 4/1/90 delayed 70 days by the Administrative Rules Review Committee at its March 12, 1990, meeting; delay lifted by this Committee, effective May 11, 1990.

³ Effective date of subrule 79.1(13) delayed until adjournment of the 1992 Sessions of the General Assembly by the Administrative Rules Review Committee at its meeting held July 12, 1991.

⁴ Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.

⁵ At a special meeting held January 24, 2002, the Administrative Rules Review Committee voted to delay until adjournment of the 2002 Session of the General Assembly the effective date of amendments published in the February 6, 2002, Iowa Administrative Bulletin as **ARC 1365B**.

⁶ Effective date of October 1, 2002, delayed 70 days by the Administrative Rules Review Committee at its meeting held September 10, 2002. At its meeting held November 19, 2002, the Committee voted to delay the effective date until adjournment of the 2003 Session of the General Assembly.

⁷ July 1, 2009, effective date of amendments to 79.1(1)“d,” 79.1(2), and 79.1(24)“a”(1) delayed 70 days by the Administrative Rules Review Committee at a special meeting held June 25, 2009.

⁸ See HJR 2008 of 2012 Session of the Eighty-fourth General Assembly regarding nullification of amendment to 79.1(7)“b” (ARC 9959B, IAB 1/11/12).

INSPECTIONS AND APPEALS DEPARTMENT[481]**CHAPTER 1
ADMINISTRATION**

- 1.1(10A) Organization
- 1.2(10A) Definitions
- 1.3(10A) Administration division
- 1.4(10A) Investigations division
- 1.5(10A) Health facilities division
- 1.6(10A) Administrative hearings division
- 1.7(10A) Administering discretion
- 1.8(10A) Employment appeal board
- 1.9(10A,237) Child advocacy board
- 1.10(10A,13B) State public defender
- 1.11(10A,99D,99F) Racing and gaming commission

**CHAPTER 2
PETITIONS FOR RULE MAKING**

- 2.1(17A) Petition for rule making
- 2.2(17A) Briefs
- 2.3(17A) Inquiries
- 2.4(17A) Agency consideration

**CHAPTER 3
DECLARATORY ORDERS
(Uniform Rules)**

- 3.1(17A) Petition for declaratory order
- 3.2(17A) Notice of petition
- 3.3(17A) Intervention
- 3.4(17A) Briefs
- 3.5(17A) Inquiries
- 3.6(17A) Service and filing of petitions and other papers
- 3.7(17A) Consideration
- 3.8(17A) Action on petition
- 3.9(17A) Refusal to issue order
- 3.12(17A) Effect of a declaratory order

**CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)**

- 4.3(17A) Public rule-making docket
- 4.4(17A) Notice of proposed rule making
- 4.5(17A) Public participation
- 4.6(17A) Regulatory analysis
- 4.10(17A) Exemptions from public rule-making procedures
- 4.11(17A) Concise statement of reasons
- 4.13(17A) Agency rule-making record

**CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)**

- 5.1(17A,22) Definitions
- 5.3(17A,22) Requests for access to records

- 5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record
- 5.9(17A,22) Disclosures without the consent of the subject
- 5.10(17A,22) Routine use
- 5.11(17A,22) Consensual disclosure of confidential records
- 5.12(17A,22) Release to subject
- 5.13(17A,22) Availability of records
- 5.14(17A,22) Authority to release confidential records
- 5.15(17A,22) Personnel files
- 5.16(17A,22) Personally identifiable information

CHAPTER 6

UNIFORM WAIVER AND VARIANCE RULES

- 6.1(10A,17A,ExecOrd11) Applicability
- 6.2(10A,17A,ExecOrd11) Definitions
- 6.3(10A,17A,ExecOrd11) Interpretive rules
- 6.4(10A,17A,ExecOrd11) Compliance with statute
- 6.5(10A,17A,ExecOrd11) Criteria for waiver or variance
- 6.6(10A,17A,ExecOrd11) Filing of petition
- 6.7(10A,17A,ExecOrd11) Content of petition
- 6.8(10A,17A,ExecOrd11) Additional information
- 6.9(10A,17A,ExecOrd11) Notice
- 6.10(10A,17A,ExecOrd11) Hearing procedures
- 6.11(10A,17A,ExecOrd11) Ruling
- 6.12(10A,17A,ExecOrd11) Public availability
- 6.13(10A,17A,ExecOrd11) Voiding or cancellation
- 6.14(10A,17A,ExecOrd11) Violations
- 6.15(10A,17A,ExecOrd11) Defense
- 6.16(10A,17A,ExecOrd11) Appeals
- 6.17(10A,17A,ExecOrd11) Sample petition for waiver or variance

CHAPTER 7

CONSENT FOR THE SALE OF GOODS AND SERVICES

- 7.1(68B) General prohibition
- 7.2(68B) Definitions
- 7.3(68B) Conditions of consent for officials
- 7.4(68B) Application for consent
- 7.5(68B) Effect of consent
- 7.6(22,68B) Public information
- 7.7(68B) Appeal

CHAPTER 8

LICENSING ACTIONS FOR NONPAYMENT OF CHILD SUPPORT AND STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

- 8.1(252J) Certificates of noncompliance
- 8.2(261) Student loan default/noncompliance with agreement for payment of obligation
- 8.3(261) Suspension or revocation of a license

CHAPTER 9
INDIGENT DEFENSE CLAIMS PROCESSING

9.1(232,815)	Definitions
9.2(815)	Claims submitted by a public defender
9.3(815)	Claims submitted by a private attorney
9.4(815)	Claims submitted by a county
9.5(815)	Claims for other professional services
9.6(10A)	Processing and payment
9.7(10A)	Payment errors
9.8(10A)	Availability of records

CHAPTER 10
CONTESTED CASE HEARINGS

10.1(10A)	Definitions
10.2(10A,17A)	Time requirements
10.3(10A)	Requests for a contested case hearing
10.4(10A)	Transmission of contested cases
10.5(17A)	Notices of hearing
10.6(10A)	Waiver of procedures
10.7(10A,17A)	Telephone proceedings
10.8(10A,17A)	Scheduling
10.9(17A)	Disqualification
10.10(10A,17A)	Consolidation—severance
10.11(10A,17A)	Pleadings
10.12(17A)	Service and filing of pleadings and other papers
10.13(17A)	Discovery
10.14(10A,17A)	Subpoenas
10.15(10A,17A)	Motions
10.16(17A)	Prehearing conference
10.17(10A)	Continuances
10.18(10A,17A)	Withdrawals
10.19(10A,17A)	Intervention
10.20(17A)	Hearing procedures
10.21(17A)	Evidence
10.22(17A)	Default
10.23(17A)	Ex parte communication
10.24(10A,17A)	Decisions
10.25(10A,17A)	DIA appeals
10.26(10A,17A,272C)	Board hearings
10.27(10A)	Transportation hearing fees
10.28(10A)	Recording costs
10.29(10A)	Code of administrative judicial conduct

CHAPTER 11
PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS
TO CARRY WEAPONS AND ACQUIRE FIREARMS

11.1(17A,724)	Definitions
11.2(724)	Appeals
11.3(17A,724)	Notice of hearing
11.4(17A,724)	Agency record
11.5(17A)	Contested case hearing
11.6(17A)	Service and filing of documents

- 11.7(17A) Witness lists and exhibits
- 11.8(17A) Evidence
- 11.9(17A) Withdrawals and dismissals
- 11.10(17A) Default
- 11.11(10A) Costs
- 11.12(724) Probable cause
- 11.13(724) Clear and convincing evidence

CHAPTERS 12 to 19
Reserved

AUDITS DIVISION

CHAPTERS 20 and 21
Reserved

CHAPTER 22
HEALTH CARE FACILITY AUDITS

- 22.1(10A) Audit occurrence
- 22.2(10A) Confidentiality

CHAPTERS 23 and 24
Reserved

CHAPTER 25
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM

- 25.1(73) Definitions
- 25.2(10A) Certification
- 25.3(17A) Description of application
- 25.4(10A) Eligibility standards
- 25.5(10A) Special consideration
- 25.6(10A) Family-owned business
- 25.7(10A) Cottage industry
- 25.8(10A) Decertification
- 25.9(12) Request for bond waiver
- 25.10(714) Fraudulent practices in connection with targeted small business programs
- 25.11(17A) Appeal procedure

CHAPTERS 26 to 29
Reserved

INSPECTIONS DIVISION

CHAPTER 30
FOOD AND CONSUMER SAFETY

- 30.1(10A,137C,137D,137F) Food and consumer safety bureau
- 30.2(10A,137C,137D,137F) Definitions
- 30.3(137C,137D,137F) Licensing and postings
- 30.4(137C,137D,137F) License fees
- 30.5(137F) Penalty and delinquent fees
- 30.6(137C,137D,137F) Returned checks
- 30.7(137F) Double licenses
- 30.8(137C,137D,137F) Inspection frequency
- 30.9(22) Examination of records
- 30.10(17A,137C,137D,137F) Denial, suspension, or revocation of a license to operate

- 30.11(10A,137C,137D,137F) Formal hearing
- 30.12(137F) Primary servicing laboratory

CHAPTER 31

FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

- 31.1(137F) Inspection standards for food establishments
- 31.2(137F) Inspection standards for food processing plants
- 31.3(137D,137F) Adulterated food and disposal
- 31.4(137D,137F) False label or defacement
- 31.5(137F) Temporary food establishments and farmers market potentially hazardous food licensees

CHAPTERS 32 and 33

Reserved

CHAPTER 34

HOME FOOD ESTABLISHMENTS

- 34.1(137D) Inspection standards
- 34.2(137D) Enforcement
- 34.3(137D) Labeling requirement
- 34.4(137D) Annual gross sales
- 34.5(137D) Criminal offense—conviction of license holder

CHAPTER 35

CONTRACTOR REQUIREMENTS

- 35.1(137C,137D,137F) Definitions
- 35.2(137C,137D,137F) Contracts
- 35.3(137C,137D,137F) Contractor
- 35.4(137C,137D,137F) Contractor inspection personnel
- 35.5(137C,137D,137F) Investigation
- 35.6(137C,137D,137F) Inspection standards
- 35.7(137C,137D,137F) Enforcement
- 35.8(137C,137D,137F) Licensing
- 35.9(137C,137D,137F) Records
- 35.10(137C,137D,137F) Reporting requirements
- 35.11(137C,137D,137F) Contract rescinded

CHAPTER 36

Reserved

CHAPTER 37

HOTEL AND MOTEL INSPECTIONS

- 37.1(137C) Building and grounds
- 37.2(137C) Guest rooms
- 37.3(137C) Bedding
- 37.4(137C) Lavatory facilities
- 37.5(137C) Glasses and ice
- 37.6(137C) Employees
- 37.7(137C) Room rates
- 37.8(137C) Inspections
- 37.9(137C) Enforcement
- 37.10(137C) Criminal offense—conviction of license holder

CHAPTERS 38 and 39

Reserved

CHAPTER 40

FOSTER CARE FACILITY INSPECTIONS

- 40.1(10A) License surveys
- 40.2(10A) Unannounced inspections
- 40.3(10A) Results
- 40.4(10A) Ownership of records

CHAPTER 41

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN (PMIC)

- 41.1(135H) Definitions
- 41.2(135H) Application for license
- 41.3(135H) Renewal application or change of ownership
- 41.4(135H) Licenses for distinct parts
- 41.5(135H) Variances
- 41.6(135H) Notice to the department
- 41.7(135H) Inspection of complaints
- 41.8(135H) General requirement
- 41.9(135H) Certification of need for services
- 41.10(135H) Active treatment
- 41.11(135H) Individual plan of care
- 41.12(135H) Individual written plan of care
- 41.13(135H) Plan of care team
- 41.14(135H) Required discharge
- 41.15(135H) Criminal behavior involving children
- 41.16(22,135H) Confidential or open information
- 41.17(135H) Additional provisions concerning physical restraint

CHAPTERS 42 to 49

Reserved

CHAPTER 50

HEALTH CARE FACILITIES ADMINISTRATION

- 50.1(10A) Inspections
- 50.2(10A) Definitions
- 50.3(135B,135C) Licensing
- 50.4(135C) Fines and citations
- 50.5(135C) Denial, suspension or revocation
- 50.6(10A) Formal hearing
- 50.7(10A,135C) Additional notification
- 50.8(22,135B,135C) Records
- 50.9(135C) Criminal, dependent adult abuse, and child abuse record checks
- 50.10(135C) Inspections, exit interviews, plans of correction, and revisits
- 50.11(135C) Complaint and self-reported incident investigation procedure
- 50.12(135C) Requirements for service
- 50.13(135C) Inspectors' conflicts of interest

CHAPTER 51

HOSPITALS

- 51.1(135B) Definitions
- 51.2(135B) Classification, compliance and license

51.3(135B)	Quality improvement program
51.4(135B)	Long-term acute care hospital located within a general hospital
51.5(135B)	Medical staff
51.6(135B)	Patient rights and responsibilities
51.7(135B)	Abuse
51.8(135B)	Organ and tissue—requests and procurement
51.9(135B)	Nursing services
51.10 and 51.11	Reserved
51.12(135B)	Records and reports
51.13	Reserved
51.14(135B)	Pharmaceutical service
51.15	Reserved
51.16(135B)	Radiological services
51.17	Reserved
51.18(135B)	Laboratory service
51.19	Reserved
51.20(135B)	Food and nutrition services
51.21	Reserved
51.22(135B)	Equipment for patient care
51.23	Reserved
51.24(135B)	Infection control
51.25	Reserved
51.26(135B)	Surgical services
51.27	Reserved
51.28(135B)	Anesthesia services
51.29	Reserved
51.30(135B)	Emergency services
51.31	Reserved
51.32(135B)	Obstetric and neonatal services
51.33	Reserved
51.34(135B)	Pediatric services
51.35	Reserved
51.36(135B)	Psychiatric services
51.37	Reserved
51.38(135B)	Long-term care service
51.39(135B)	Penalty and enforcement
51.40(135B)	Validity of rules
51.41(135B)	Criminal, dependent adult abuse, and child abuse record checks
51.42 to 51.49	Reserved
51.50(135B)	Minimum standards for construction
51.51 and 51.52	Reserved
51.53(135B)	Critical access hospitals

CHAPTER 52

DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

52.1(235E)	Definitions
52.2(235E)	Persons who must report dependent adult abuse and the reporting procedure for those persons
52.3(235E)	Reports and registry of dependent adult abuse
52.4(235E)	Financial institution employees and reporting suspected financial exploitation
52.5(235E)	Evaluation of report
52.6(235E)	Separation of victim and alleged abuser

- 52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations
 52.8(235E) Notification to subsequent employers

CHAPTER 53
 HOSPICE LICENSE STANDARDS

- 53.1(135J) Definitions
 53.2(135J) License
 53.3(135J) Patient rights
 53.4(135J) Governing body
 53.5(135J) Quality assurance and utilization review
 53.6(135J) Attending physician services
 53.7(135J) Medical director
 53.8(135J) Interdisciplinary team (IDT)
 53.9(135J) Nursing services
 53.10 Reserved
 53.11(135J) Coordinator of patient care
 53.12(135J) Social services
 53.13(135J) Counseling services
 53.14(135J) Volunteer services
 53.15(135J) Spiritual counseling
 53.16(135J) Optional services
 53.17(135J) Contracted services
 53.18(135J) Short-term hospital services
 53.19(135J) Bereavement services
 53.20(135J) Records

CHAPTER 54
 GOVERNOR'S AWARD FOR QUALITY CARE

- 54.1(135C) Purpose
 54.2(135C) Definitions
 54.3(135C) Nomination
 54.4(135C) Applicant eligibility
 54.5(135C) Nomination information
 54.6(135C) Evaluation
 54.7(135C) Selection of finalists
 54.8(135C) Certificate of recognition

CHAPTER 55
 Reserved

CHAPTER 56
 FINING AND CITATIONS

- 56.1(135C) Authority for citations
 56.2(135C) Classification of violations—classes
 56.3(135C) Fines
 56.4(135C) Time for compliance
 56.5(135C) Failure to correct a violation within the time specified—penalty
 56.6(135C) Treble and double fines
 56.7(135C) Notation of classes of violations
 56.8(135C) Notation for more than one class of violation
 56.9(135C) Factors determining selection of class of violation
 56.10(135C) Factors determining imposition of citation and fine

56.11(135C)	Class I violation not specified in the rules
56.12(135C)	Class I violation as a result of multiple lesser violations
56.13(135C)	Form of citations
56.14(135C)	Licensee's response to a citation
56.15(135C)	Procedure for facility after informal conference
56.16	Reserved
56.17(135C)	Formal contest

CHAPTER 57

RESIDENTIAL CARE FACILITIES

57.1(135C)	Definitions
57.2(135C)	Variances
57.3(135C)	Application for licensure
57.4(135C)	Special categories
57.5(135C)	General requirements
57.6(135C)	Notifications required by the department
57.7(135C)	Special classification—memory care
57.8(135C)	Licenses for distinct parts
57.9(135C)	Administrator
57.10(135C)	Administration
57.11(135C)	General policies
57.12(135C)	Personnel
57.13(135C)	Admission, transfer, and discharge
57.14(135C)	Contracts
57.15(135C)	Physical examinations
57.16(135C)	Records
57.17(135C)	Resident care and personal services
57.18	Reserved
57.19(135C)	Drugs
57.20(135C)	Dental services
57.21(135C)	Dietary
57.22(135C)	Service plan
57.23(135C)	Resident activities program
57.24(135C)	Certified volunteer long-term care ombudsman program
57.25(135C)	Safety
57.26(135C)	Housekeeping
57.27(135C)	Maintenance
57.28(135C)	Laundry
57.29(135C)	Garbage and waste disposal
57.30(135C)	Buildings, furnishings, and equipment
57.31(135C)	Family and employee accommodations
57.32(135C)	Animals
57.33(135C)	Environment and grounds
57.34(135C)	Supplies
57.35(135C)	Residents' rights in general
57.36(135C)	Involuntary discharge or transfer
57.37(135C)	Residents' rights
57.38(135C)	Financial affairs—management
57.39(135C)	Resident abuse prohibited
57.40(135C)	Resident records
57.41(135C)	Dignity preserved
57.42(135C)	Resident work

57.43(135C)	Communications
57.44(135C)	Resident activities
57.45(135C)	Resident property
57.46(135C)	Family visits
57.47(135C)	Choice of physician
57.48(135C)	Incompetent residents
57.49(135C)	County care facilities
57.50(135C)	Another business or activity in a facility
57.51(135C)	Respite care services

CHAPTER 58 NURSING FACILITIES

58.1(135C)	Definitions
58.2(135C)	Variances
58.3(135C)	Application for licensure
58.4(135C)	General requirements
58.5(135C)	Notifications required by the department
58.6	Reserved
58.7(135C)	Licenses for distinct parts
58.8(135C)	Administrator
58.9(135C)	Administration
58.10(135C)	General policies
58.11(135C)	Personnel
58.12(135C)	Admission, transfer, and discharge
58.13(135C)	Contracts
58.14(135C)	Medical services
58.15(135C)	Records
58.16(135C)	Resident care and personal services
58.17	Reserved
58.18(135C)	Nursing care
58.19(135C)	Required nursing services for residents
58.20(135C)	Duties of health service supervisor
58.21(135C)	Drugs, storage, and handling
58.22(135C)	Rehabilitative services
58.23(135C)	Dental, diagnostic, and other services
58.24(135C)	Dietary
58.25(135C)	Social services program
58.26(135C)	Resident activities program
58.27(135C)	Certified volunteer long-term care ombudsman program
58.28(135C)	Safety
58.29(135C)	Resident care
58.30	Reserved
58.31(135C)	Housekeeping
58.32(135C)	Maintenance
58.33(135C)	Laundry
58.34(135C)	Garbage and waste disposal
58.35(135C)	Buildings, furnishings, and equipment
58.36(135C)	Family and employee accommodations
58.37(135C)	Animals
58.38(135C)	Supplies
58.39(135C)	Residents' rights in general
58.40(135C)	Involuntary discharge or transfer

58.41(135C)	Residents' rights
58.42(135C)	Financial affairs—management
58.43(135C)	Resident abuse prohibited
58.44(135C)	Resident records
58.45(135C)	Dignity preserved
58.46(135C)	Resident work
58.47(135C)	Communications
58.48(135C)	Resident activities
58.49(135C)	Resident property
58.50(135C)	Family visits
58.51(135C)	Choice of physician and pharmacy
58.52(135C)	Incompetent resident
58.53(135C)	County care facilities
58.54(73GA,ch 1016)	Special unit or facility dedicated to the care of persons with chronic confusion or a dementing illness (CCDI unit or facility)
58.55(135C)	Another business or activity in a facility
58.56(135C)	Respite care services
58.57(135C)	Training of inspectors

CHAPTER 59
TUBERCULOSIS (TB) SCREENING

59.1(135B,135C)	Purpose
59.2(135B,135C)	Definitions
59.3(135B,135C)	TB risk assessment
59.4(135B,135C)	Health care facility or hospital risk classification
59.5(135B,135C)	Baseline TB screening procedures for health care facilities and hospitals
59.6(135B,135C)	Serial TB screening procedures for health care facilities and hospitals
59.7(135B,135C)	Screening of HCWs who transfer to other health care facilities or hospitals
59.8(135B,135C)	Baseline TB screening procedures for residents of health care facilities
59.9(135B,135C)	Serial TB screening procedures for residents of health care facilities
59.10(135B,135C)	Performance of screening and testing

CHAPTER 60
MINIMUM PHYSICAL STANDARDS
FOR RESIDENTIAL CARE FACILITIES

60.1(135C)	Definitions
60.2(135C)	Variances
60.3(135C)	General requirements
60.4(135C)	Typical construction
60.5(135C)	Supervised care unit
60.6(135C)	Support area
60.7(135C)	Service area
60.8(135C)	Administration and staff area
60.9(135C)	Definition of public area
60.10(135C)	Elevator requirements
60.11(135C)	Mechanical requirements
60.12(135C)	Electrical requirement
60.13(135C)	Codes and standards

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

61.1(135C)	Definitions
61.2(135C)	General requirements

61.3(135C)	Submission of construction documents
61.4(135C)	Variances
61.5(135C)	Additional notification requirements
61.6(135C)	Construction requirements
61.7(135C)	Nursing care unit
61.8(135C)	Dietetic and other service areas
61.9(135C)	Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility)

CHAPTER 62

RESIDENTIAL CARE FACILITIES

FOR PERSONS WITH MENTAL ILLNESS (RCF/PMI)

62.1(135C)	Definitions
62.2(135C)	Application for license
62.3(135C)	Licenses for distinct parts
62.4(135C)	Variances
62.5(135C)	General requirements
62.6(135C)	Notification required by the department
62.7(135C)	Administrator
62.8(135C)	Administration
62.9(135C)	Personnel
62.10(135C)	General admission policies
62.11(135C)	Evaluation services
62.12(135C)	Programming
62.13(135C)	Crisis intervention
62.14(135C)	Discharge or transfer
62.15(135C)	Medication management
62.16(135C)	Resident property
62.17(135C)	Financial affairs
62.18(135C)	Records
62.19(135C)	Health and safety
62.20(135C)	Nutrition
62.21(135C)	Physical facilities and maintenance
62.22	Reserved
62.23(135C)	Residents' rights in general
62.24(135C)	County care facilities
62.25(135C)	Another business or activity in a facility
62.26(135C)	Respite care services

CHAPTER 63

RESIDENTIAL CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED

63.1(135C)	Definitions
63.2(135C)	Variances
63.3(135C)	Application for licensure
63.4(135C)	General requirements
63.5(135C)	Notifications required by the department
63.6	Reserved
63.7(135C)	Licenses for distinct parts
63.8(135C)	Administrator
63.9(135C)	General policies
63.10	Reserved

63.11(135C)	Personnel
63.12(135C)	Resident care and personal services
63.13(135C)	Admission, transfer, and discharge
63.14(135C)	Contracts
63.15(135C)	Physical examinations
63.16(135C)	Dental services
63.17(135C)	Records
63.18(135C)	Drugs
63.19(135C)	Dietary
63.20(135C)	Orientation program
63.21(135C)	Individualized program of care
63.22	Reserved
63.23(135C)	Safety
63.24(135C)	Housekeeping
63.25(135C)	Maintenance
63.26(135C)	Laundry
63.27(135C)	Garbage and waste disposal
63.28(135C)	Buildings, furnishings, and equipment
63.29(135C)	Family and employee accommodations
63.30(135C)	Animals
63.31(135C)	Environment and grounds
63.32(135C)	Supplies
63.33(135C)	Residents' rights in general
63.34(135C)	Involuntary discharge or transfer
63.35(135C)	Resident rights
63.36(135C)	Financial affairs—management
63.37(135C)	Resident abuse prohibited
63.38(135C)	Resident records
63.39(135C)	Dignity preserved
63.40(135C)	Resident work
63.41(135C)	Communications
63.42(135C)	Resident activities
63.43(135C)	Resident property
63.44(135C)	Family visits
63.45(135C)	Choice of physician
63.46(135C)	Incompetent resident
63.47(135C)	Specialized license for three- to five-bed facilities
63.48	Reserved
63.49(135C)	Another business or activity in a facility
63.50(135C)	Respite care services

CHAPTER 64
INTERMEDIATE CARE FACILITIES FOR THE
INTELLECTUALLY DISABLED

64.1	Reserved
64.2(135C)	Variances
64.3(135C)	Application for license
64.4(135C)	General requirements
64.5(135C)	Notifications required by the department
64.6(135C)	Veteran eligibility
64.7(135C)	Licenses for distinct parts
64.8 to 64.16	Reserved

64.17(135C)	Contracts
64.18(135C)	Records
64.19 to 64.32	Reserved
64.33(135C)	Allegations of dependent adult abuse
64.34(135C)	Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse
64.35	Reserved
64.36(135C)	Involuntary discharge or transfer
64.37 to 64.59	Reserved
64.60(135C)	Federal regulations adopted—conditions of participation
64.61(135C)	Federal regulations adopted—rights
64.62(135C)	Another business or activity in a facility
64.63(135C)	Respite care services

CHAPTER 65
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL ILLNESS (ICF/PMI)

65.1(135C)	Definitions
65.2(135C)	Application for license
65.3(135C)	Licenses for distinct parts
65.4(135C)	Variances
65.5(135C)	General requirements
65.6(135C)	Notification required by the department
65.7(135C)	Administrator
65.8(135C)	Administration
65.9(135C)	Personnel
65.10(135C)	General admission policies
65.11(135C)	Evaluation services
65.12(135C)	Individual program plan (IPP)
65.13(135C)	Activity program
65.14(135C)	Crisis intervention
65.15(135C)	Restraint or seclusion
65.16(135C)	Discharge or transfer
65.17(135C)	Medication management
65.18(135C)	Resident property and personal affairs
65.19(135C)	Financial affairs
65.20(135C)	Records
65.21(135C)	Health and safety
65.22(135C)	Nutrition
65.23(135C)	Physical facilities and maintenance
65.24	Reserved
65.25(135C)	Residents' rights in general
65.26(135C)	Incompetent residents
65.27(135C)	County care facilities
65.28(135C)	Violations
65.29(135C)	Another business or activity in a facility
65.30(135C)	Respite care services

CHAPTER 66
BOARDING HOMES

- 66.1(83GA,SF484) Definitions
- 66.2(83GA,SF484) Registration of boarding homes
- 66.3(83GA,SF484) Occupancy reports
- 66.4(83GA,SF484) Complaints
- 66.5(83GA,SF484) Investigations
- 66.6(83GA,SF484) Penalties
- 66.7(83GA,SF484) Public and confidential information

CHAPTER 67
GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS,
AND ADULT DAY SERVICES

- 67.1(231B,231C,231D) Definitions
- 67.2(231B,231C,231D) Program policies and procedures, including those for incident reports
- 67.3(231B,231C,231D) Tenant rights
- 67.4(231B,231C,231D) Program notification to the department
- 67.5(231B,231C,231D) Medications
- 67.6(231B,231C,231D) Another business or activity located in a program
- 67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program
- 67.8(231B,231C,231D) All other waiver requests
- 67.9(231B,231C,231D) Staffing
- 67.10(17A,231B,231C,231D) Monitoring
- 67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure
- 67.12(17A,231B,231D) Adult day services and elder group homes—preliminary report, plan of correction and request for reconsideration
- 67.13(17A,231C,85GA,SF394) Assisted living programs—exit interview, final report, plan of correction
- 67.14(17A,231C,85GA,SF394) Assisted living programs—response to final report
- 67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate
- 67.16(17A,231B,231C,231D) Conditional certification
- 67.17(17A,231B,231C,231D) Civil penalties
- 67.18(17A,231B,231C,231D) Judicial review
- 67.19(135C,231B,231C,231D) Criminal, dependent adult abuse, and child abuse record checks
- 67.20(17A,231C,231D) Emergency removal of tenants
- 67.21(231C) Nursing assistant work credit
- 67.22(231B,231C,231D) Public or confidential information
- 67.23(231B,231C,231D) Training related to Alzheimer's disease and similar forms of irreversible dementia

CHAPTER 68
ELDER GROUP HOMES

- 68.1(231B) Definitions
- 68.2(231B) Program certification and posting requirements
- 68.3(231B) Certification—application process
- 68.4(231B) Certification—application content
- 68.5(231B) Initial certification process
- 68.6(231B) Expiration of program certification
- 68.7(231B) Recertification process
- 68.8(231B) Notification of recertification
- 68.9(231B) Listing of all certified programs
- 68.10(231B) Transfer of certification

68.11(231B)	Cessation of program operation
68.12(231B)	Occupancy agreement
68.13(231B)	Evaluation of tenant
68.14(231B)	Criteria for admission and retention of tenants
68.15(231B)	Involuntary transfer from the program
68.16(231B)	Tenant documents
68.17(231B)	Service plans
68.18(231B)	Nurse review
68.19(231B)	Staffing
68.20(231B)	Managed risk policy and managed risk consensus agreements
68.21(231B)	Transportation
68.22(231B)	Identification of veteran's benefit eligibility
68.23(231B)	Resident advocate committees
68.24(231B)	Life safety—emergency policies and procedures and structural safety requirements
68.25(231B)	Structural standards
68.26(231B)	Landlord and tenant Act

CHAPTER 69

ASSISTED LIVING PROGRAMS

69.1(231C)	Definitions
69.2(231C)	Program certification
69.3(231C)	Certification of a nonaccredited program—application process
69.4(231C)	Nonaccredited program—application content
69.5(231C)	Initial certification process for a nonaccredited program
69.6(231C)	Expiration of the certification of a nonaccredited program
69.7(231C)	Recertification process for a nonaccredited program
69.8(231C)	Notification of recertification for a nonaccredited program
69.9(231C)	Certification or recertification of an accredited program—application process
69.10(231C)	Certification or recertification of an accredited program—application content
69.11(231C)	Initial certification process for an accredited program
69.12(231C)	Recertification process for an accredited program
69.13(231C)	Listing of all certified programs
69.14(231C)	Recognized accrediting entity
69.15(231C)	Requirements for an accredited program
69.16(231C)	Maintenance of program accreditation
69.17(231C)	Transfer of certification
69.18(231C)	Structural and life safety reviews of a building for a new program
69.19(231C)	Structural and life safety review prior to the remodeling of a building for a certified program
69.20(231C)	Cessation of program operation
69.21(231C)	Occupancy agreement
69.22(231C)	Evaluation of tenant
69.23(231C)	Criteria for admission and retention of tenants
69.24(231C)	Involuntary transfer from the program
69.25(231C)	Tenant documents
69.26(231C)	Service plans
69.27(231C)	Nurse review
69.28(231C)	Food service
69.29(231C)	Staffing
69.30(231C)	Dementia-specific education for program personnel
69.31(231C)	Managed risk policy and managed risk consensus agreements
69.32(231C)	Life safety—emergency policies and procedures and structural safety requirements

69.33(231C)	Transportation
69.34(231C)	Activities
69.35(231C)	Structural requirements
69.36(231C)	Dwelling units in dementia-specific programs
69.37(231C)	Landlord and tenant Act
69.38(83GA,SF203)	Identification of veteran's benefit eligibility

CHAPTER 70 ADULT DAY SERVICES

70.1(231D)	Definitions
70.2(231D)	Program certification
70.3(231D)	Certification of a nonaccredited program—application process
70.4(231D)	Nonaccredited program—application content
70.5(231D)	Initial certification process for a nonaccredited program
70.6(231D)	Expiration of the certification of a nonaccredited program
70.7(231D)	Recertification process for a nonaccredited program
70.8(231D)	Notification of recertification for a nonaccredited program
70.9(231D)	Certification or recertification of an accredited program—application process
70.10(231D)	Certification or recertification of an accredited program—application content
70.11(231D)	Initial certification process for an accredited program
70.12(231D)	Recertification process for an accredited program
70.13(231D)	Listing of all certified programs
70.14(231D)	Recognized accrediting entity
70.15(231D)	Requirements for an accredited program
70.16(231D)	Maintenance of program accreditation
70.17(231D)	Transfer of certification
70.18(231D)	Structural and life safety reviews of a building for a new program
70.19(231D)	Structural and life safety review prior to the remodeling of a building for a certified program
70.20(231D)	Cessation of program operation
70.21(231D)	Contractual agreement
70.22(231D)	Evaluation of participant
70.23(231D)	Criteria for admission and retention of participants
70.24(231D)	Involuntary discharge from the program
70.25(231D)	Participant documents
70.26(231D)	Service plans
70.27(231D)	Nurse review
70.28(231D)	Food service
70.29(231D)	Staffing
70.30(231D)	Dementia-specific education for program personnel
70.31(231D)	Managed risk policy and managed risk consensus agreements
70.32(231D)	Life safety—emergency policies and procedures and structural safety requirements
70.33(231D)	Transportation
70.34(231D)	Activities
70.35(231D)	Structural requirements
70.36(231D)	Identification of veteran's benefit eligibility

CHAPTER 71 Reserved

CHAPTER 72
PUBLIC ASSISTANCE
FRONT END INVESTIGATIONS

- 72.1(10A) Definitions
- 72.2(10A) Referrals
- 72.3(10A) Investigation procedures
- 72.4(10A) Findings

CHAPTER 73
MEDICAID FRAUD CONTROL BUREAU

- 73.1(10A) Definitions
- 73.2(10A) Complaints
- 73.3(10A) Investigative procedures
- 73.4(10A) Audit of clinical and fiscal records by the department
- 73.5(10A) Who shall be reviewed, audited, or investigated
- 73.6(10A) Auditing and investigative procedures
- 73.7(10A) Actions based on audit or investigative findings
- 73.8(10A) Confidentiality
- 73.9(10A) Appeal by provider of care

CHAPTER 74
ECONOMIC ASSISTANCE FRAUD BUREAU

- 74.1(10A) Definitions
- 74.2(10A) Responsibilities
- 74.3(10A) Procedures
- 74.4(10A) Investigations
- 74.5(10A) Executive branch investigations

CHAPTER 75
DIVESTITURE UNIT

PREAMBLE

- 75.1(10A) Definitions
- 75.2(10A) Referral process
- 75.3(10A) Referral review
- 75.4(10A) Investigation
- 75.5(10A) Organizing information
- 75.6(10A) Computation of debt
- 75.7(10A) Issuing notices
- 75.8(10A) Conducting informal conferences
- 75.9(10A) Failure to timely request hearing
- 75.10(10A) District court hearing
- 75.11(10A) Filing and docketing of the order
- 75.12(10A,22) Confidentiality

CHAPTERS 76 to 89
Reserved

CHAPTER 90
PUBLIC ASSISTANCE DEBT RECOVERY UNIT

- 90.1(10A) Definitions
- 90.2(10A) Recovery process
- 90.3(10A) Records
- 90.4(10A) Review

90.5(10A)	Debt repayment
90.6(10A)	Further collection action
90.7(10A)	Appeal rights
90.8(10A)	Data processing systems matches
90.9(10A)	Confidentiality

CHAPTERS 91 to 99

Reserved

*GAMES OF SKILL, CHANCE, BINGO
AND RAFFLES*CHAPTER 100
ADMINISTRATION

100.1(10A,99B)	Definitions
100.2(99B)	Licensing
100.3(99B)	License requirements
100.4(99B)	Participation
100.5(99B)	Posted rules
100.6(99B)	Prizes
100.7(10A,99B)	Records
100.8(10A,99B)	Inspections
100.9(99B)	Reports
100.10(99B)	Extension of time to file quarterly report
100.11(10A,422)	State and local option sales tax
100.12(10A,17A,99B)	Appeal rights
100.13(99B)	Penalties
100.14 to 100.29	Reserved

QUALIFIED ORGANIZATION

100.30(99B)	License requirements
100.31	Reserved
100.32(99B)	Raffles
100.33(99B)	Expenses
100.34(99B)	Nature and dedication of net receipts
100.35(99B)	Extension of time to dedicate net receipts
100.36(10A,22)	Confidentiality
100.37 to 100.49	Reserved

RAFFLES CONDUCTED AT A FAIR

100.50(99B)	Raffles conducted at a fair
100.51(99B)	Raffle prizes at a fair
100.52(99B)	Exceptions for an annual raffle
100.53 to 100.79	Reserved

ANNUAL GAME NIGHT
BINGO MANUFACTURERS AND DISTRIBUTORS

100.80(99B)	Bingo manufacturers and distributors
100.81(99B)	Bingo manufacturer and distributor licenses
100.82(99B)	Bingo supplies and equipment

CHAPTER 101
AMUSEMENT CONCESSIONS

101.1(99B)	License requirements
101.2(99B)	Prizes

- 101.3(99B) Conducting games
- 101.4(99B) Posted rules

CHAPTER 102
SOCIAL GAMBLING

- 102.1(99B) License requirements
- 102.2(99B) Participation allowed
- 102.3(99B) Permissible games

CHAPTER 103
BINGO

- 103.1(10A,99B) Definitions
- 103.2(10A,99B) License
- 103.3(99B) Bingo occasion
- 103.4(99B) Game of bingo
- 103.5(99B) State and house rules
- 103.6(99B) Prizes
- 103.7(10A,99B) Workers
- 103.8(99B) Expenses
- 103.9(99B) Location
- 103.10 Reserved
- 103.11(10A,725) Advertising
- 103.12(10A,99B) Equipment
- 103.13(99B) Records
- 103.14(10A,99B) Bingo checking account
- 103.15(10A,99B) Bingo savings account
- 103.16(10A,99B) Reports
- 103.17(10A,99B) Inspections and audits
- 103.18(10A,99B) Penalties

CHAPTER 104
GENERAL PROVISIONS FOR ALL AMUSEMENT DEVICES

- 104.1(10A,99B) Definitions
- 104.2(99B) Device restrictions
- 104.3(99B) Prohibited games/devices
- 104.4(99B) Prizes
- 104.5(99B) Registration
- 104.6(99B) Violations

CHAPTER 105
REGISTERED AMUSEMENT DEVICES

- 105.1(10A,99B) Definitions
- 105.2(99B) Registered amusement device restrictions
- 105.3(99B) Prohibited registered amusement devices
- 105.4(99B) Prizes
- 105.5(99B) Registration by a manufacturer, manufacturer's representative, distributor, or an owner that operates for profit
- 105.6(99B) Registration of registered amusement devices
- 105.7(99B) Violations
- 105.8(10A,99B) Appeal rights
- 105.9(10A,99B,82GA,SF510) Procedure for denial, revocation, or suspension of a registration
- 105.10(99B) Reports

- 105.11(99B) Criteria for approval or denial of a registration
- 105.12(10A,99B) Suspension or revocation of a registration

CHAPTER 106

CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

- 106.1(10A,99B) Definitions
- 106.2(99B) Licensing
- 106.3(99B) Card game tournament
- 106.4(99B) Required postings
- 106.5(99B) Prizes and cost to participate
- 106.6(99B) Restrictions
- 106.7(99B) Qualified expenses limitation
- 106.8(99B) Records
- 106.9(99B) State and local option sales tax
- 106.10(99B) Inspections
- 106.11(99B) Quarterly reports
- 106.12(99B) Penalties
- 106.13(99B) Revocation, suspension, or denial of license

CHAPTER 107

GAME NIGHTS

- 107.1(10A,99B) Definitions
- 107.2(99B) Restrictions on game nights
- 107.3(99B) Applications
- 107.4(99B) Games
- 107.5(99B) Sponsors
- 107.6(99B) Reports and dedication of funds for qualified and eligible qualified organizations
- 107.7(422) State and local option sales tax

CHAPTER 57
RESIDENTIAL CARE FACILITIES
[Prior to 7/15/87, Health Department[470] Ch 57]

481—57.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules. The use of the words “shall” and “must” indicate those standards are mandatory. The use of the words “should” and “could” indicate those standards are recommended.

57.1(1) “*Accommodation*” means the provision of lodging, including sleeping, dining, and living areas.

57.1(2) “*Administrator*” means a person approved and certified by the department who administers, manages, supervises, and is in general administrative charge of a residential care facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

57.1(3) “*Alcoholic*” means a person in a state of dependency resulting from excessive or prolonged consumption of alcoholic beverages as defined in Iowa Code section 125.2.

57.1(4) “*Ambulatory*” means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(5) “*Basement*” means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

57.1(6) “*Board*” means the regular provision of meals.

57.1(7) “*Communicable disease*” means a disease caused by the presence of viruses or microbial agents within a person’s body, which agents may be transmitted either directly or indirectly to other persons.

57.1(8) “*Department*” means the state department of inspections and appeals.

57.1(9) “*Distinct part*” means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

57.1(10) “*Drug addiction*” means a state of dependency, as medically determined, resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 204.

57.1(11) “*Medication*” means any drug including over-the-counter substances ordered and administered under the direction of the physician.

57.1(12) “*Nonambulatory*” means the condition of a person who immediately and without aid of another is not physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

57.1(13) “*Personal care*” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and feeding, and supervision over medications which can be self-administered.

57.1(14) “*Program of care*” means all services being provided for a resident in a health care facility.

57.1(15) “*Qualified intellectual disabilities professional*” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and having one year’s experience working with persons with an intellectual disability.

57.1(16) “*Rate*” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules and regulations.

57.1(17) “*Responsible party*” means the person who signs or cosigns the admission agreement required in 481—57.14(135C) or the resident’s guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident’s admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of social services, veteran’s administration, religious groups, fraternal

organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

57.1(18) “*Restraints*” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.2(135C) Variances. Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual residential care facility. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

57.2(1) To request a variance, the licensee must:

- a. Apply for variance in writing on a form provided by the department of inspections and appeals;
- b. Cite the rule or rules from which a variance is desired;
- c. State why compliance with the rule or rules cannot be accomplished;
- d. Explain alternate arrangements or compensating circumstances which justify the variance;
- e. Demonstrate that the requested variance will not endanger the health, safety, or welfare of any resident.

57.2(2) Upon receipt of a request for variance, the director of the department of inspections and appeals will:

- a. Examine the rule from which variance is requested to determine that the request is necessary and reasonable;
- b. If the request meets the above criteria, evaluate the alternate arrangements of compensating circumstances against the requirement of the rules;
- c. Examine the effect of the requested variance on the health, safety, or welfare of the residents;
- d. Consult with the applicant if additional information is required.

57.2(3) Based upon these studies, approval of the variance will be either granted or denied within 120 days of receipt.

481—57.3(135C) Application for licensure.

57.3(1) Initial application and licensing. In order to obtain an initial residential care facility license for a residential care facility which is currently licensed the applicant must:

- a. Meet all of the rules, regulations, and standards contained in 481—Chapters 57 and 60;
- b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;
- c. Make application at least 30 days prior to the change of ownership of the facility on forms provided by the department;
- d. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door location;
- e. Submit a photograph of the front and side elevation of the facility;
- f. Submit the statutory fee for a residential care facility license;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;
- h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

57.3(2) In order to obtain an initial residential care facility license for a facility not currently licensed as a residential care facility, the applicant must:

- a. Meet all of the rules, regulations, and standards contained in 481—Chapters 57 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply;
- b. Submit a letter of intent and a written résumé of the resident care program and other services provided for departmental review and approval;

- c. Make application at least 30 days prior to the proposed opening date of the facility on forms provided by the department;
- d. Submit a floor plan of each floor of the residential care facility, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which room will be put and window and door locations;
- e. Submit a photograph of the front and side of the residential care facility;
- f. Submit the statutory fee for a residential care facility license;
- g. Comply with all other local statutes and ordinances in existence at the time of licensure;
- h. Have a certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations.

57.3(3) Renewal application. In order to obtain a renewal of the residential care facility license, the applicant must:

- a. Submit the completed application form 30 days prior to annual license renewal date of residential care facility license;
- b. Submit the statutory license fee for a residential care facility with the application for renewal;
- c. Have an approved current certificate signed by the state fire marshal or deputy state fire marshal as to compliance with fire safety rules and regulations;
- d. Submit appropriate changes in the résumé to reflect any changes in the resident care program or other services.

57.3(4) Licenses are issued to the person or governmental unit which has responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations.

The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

481—57.4(135C) Special categories. Special variations and considerations may be granted a residential care facility which is operated for people who have special problems such as intellectual disabilities, physical disabilities, have a physical or mental disability or a condition in common which can best be treated in a specialized environment under an approved program of care commensurate with the needs of the residents of the facility. Criteria for these specialized programs shall be established by the department based on the résumé of programs and services furnished by the facility and the numbers and qualifications of the administrator and staff providing these services in the facility.

57.4(1) Such a facility shall be provided with the kind of equipment, numbers of qualified staff, and operated in such fashion as to meet the requirements of the department.

57.4(2) On approval of the department, the state fire marshal, the department of human services, or other appropriate agencies, other variations from the established rules and regulations and standards for a licensed health care facility of that category may be made as is necessary to successfully implement the specialized program, providing that it does not endanger the health, safety, or welfare of any resident and that alternate means to effect the same degree of protection shall be used when such variances are permitted.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.5(135C) General requirements.

57.5(1) The license shall be displayed in a conspicuous place in the facility which is viewed by the public. (III)

57.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

57.5(3) The posted license shall accurately reflect the current status of the residential care facility. (III)

57.5(4) Licenses expire one year after the date of issuance or as indicated on the license.

57.5(5) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (III)

481—57.6(135C) Notifications required by the department. The department shall be notified:

57.6(1) Within 48 hours, by letter, of any reduction or loss of personal care or dietary staff lasting more than seven days which places the staffing ratio below that required for licensing. No additional residents may be admitted until the minimum staffing requirements are achieved; (III)

57.6(2) Of any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

57.6(3) Thirty days before addition, alteration, or new construction is begun in the residential care facility or on the premises; (III)

57.6(4) Thirty days in advance of closure of the residential care facility; (III)

57.6(5) Within two weeks of any change in administrator; (III)

57.6(6) When any change in the category of license is sought; (III)

57.6(7) Prior to the purchase, transfer, assignment, or lease of a residential care facility, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease if completed; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

57.6(8) Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of a residential care facility, the department shall upon request send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

481—57.7(135C) Special classification—memory care.

57.7(1) *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. "Memory care" in a residential care facility means the care of persons with early Alzheimer's-type dementia or other disorders causing dementia. (I, II, III)

a. Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

b. Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.7(2) *Résumé of care.* A résumé of the program of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of the program of care shall be submitted when services are substantially changed. The résumé of the program of care shall:

a. Describe the population to be served;

b. State the philosophy and objectives;

c. List criteria for transfer to and from the memory care unit or facility;

d. Include a copy of the floor plan;

e. List the titles of policies and procedures developed for the unit or facility;

f. Propose a staffing pattern;

g. Set out a plan for specialized staff training;

h. State visitor, volunteer, and safety policies;

i. Describe programs for activities, social services and families; and

j. Describe the interdisciplinary team and roles.

57.7(3) Policies and procedures. Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following.

a. Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the attending physician approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

b. Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

e. Process and criteria which will be used to monitor and to respond to risks specific to the residents, including, but not limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.7(4) Plans. Plans for the unit or facility shall be submitted in accordance with 481—Chapter 60. (II, III)

57.7(5) Assessment prior to transfer or admission. Prior to transfer or admission to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

57.7(6) Staff training. All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

b. Training shall include the following topics: (II, III)

(1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

(2) Skills for communicating with persons with dementia;

(3) Skills for communicating with family and friends of persons with dementia;

(4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

(5) The importance of planned and spontaneous activities;

(6) Skills in providing assistance with activities of daily living;

(7) Skills in working with challenging residents;

(8) Techniques for cueing, simplifying, and redirecting;

(9) Staff support and stress reduction;

(10) Medication management and nonpharmacological interventions.

c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.7(6)“*a*” shall count toward the required annual in-service training. (II, III)

57.7(7) Staffing. There shall be at least one staff person on a memory care unit at all times. (I, II, III)

57.7(8) Others living in the memory care unit. Residents not requiring memory care services may live in the memory care unit if a spouse requiring memory care services lives in the unit or if no other

beds are available in the facility and the resident or the resident's legal representative consents to the placement in writing. (II, III)

This rule is intended to implement Iowa Code sections 135C.14 and 135C.2(3) "b."
[ARC 1476C, IAB 6/11/14, effective 7/16/14]

481—57.8(135C) Licenses for distinct parts.

57.8(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility and which provide care and services of separate categories.

57.8(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to them within that part; (III)

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. The distinct part must be operationally and financially feasible;

d. A separate personal care staff with qualifications appropriate to the care and services being rendered must be regularly assigned and working in the distinct part under responsible management; (III)

e. Separately licensed distinct parts may have certain services such as management, building maintenance, laundry and dietary in common with each other.

481—57.9(135C) Administrator. Each residential care facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these regulations. (III)

57.9(1) The administrator shall be at least 18 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

a. Be a licensed nursing home administrator; or (III)

b. Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

c. Have two years of supervised experience in a residential care facility, at least six months of which was in an administrative capacity. (III)

57.9(2) The administrator may act as an administrator for not more than two residential care facilities. (II)

a. The distance between the two facilities shall be no greater than 50 miles. (II)

b. The administrator shall spend the equivalent of three full eight-hour days per week in each facility. (II)

c. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

57.9(3) The licensee may be the approved administrator providing the licensee meets the requirements set forth in these regulations and devotes the required time to administrative duties. Residency in the facility does not in itself meet the requirement. (III)

57.9(4) A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed six months when, through no fault of its own, the home has lost its administrator and has not been able to replace the administrator provided the department has been notified prior to the date of the administrator's appointment. (III)

57.9(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

a. Be knowledgeable of the operation of the facility; (III)

b. Have access to records concerned with the operation of the facility; (III)

c. Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

- d.* Be at least 18 years of age; (III)
- e.* Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- f.* Have had training to carry out assignments and take care of emergencies and sudden illnesses of residents. (III)

57.9(6) An administrator of only one facility shall be considered as a full-time employee. Full-time employment is defined as 40 hours per week. (III)

481—57.10(135C) Administration.

57.10(1) The licensee shall:

- a.* Assume the responsibility for the overall operation of the residential care facility; (III)
- b.* Be responsible for compliance with all applicable laws and with the rules of the department; (III)
- c.* Establish written policies, which shall be available for review, for the operation of the residential care facility. (III)

57.10(2) The administrator shall:

- a.* Be responsible for the selection and direction of competent personnel who provide services for the resident care program; (III)
- b.* Be responsible for the arrangement for all department heads to annually attend a minimum of ten contact hours of educational programs to increase skills and knowledge needed for the position; (III)
- c.* Be responsible for a monthly in-service educational program for all employees and to maintain records of programs and participants; (III)
- d.* Make available the residential care facility payroll records for departmental review as needed. (III)

481—57.11(135C) General policies.

57.11(1) There shall be written personnel policies in facilities of more than 15 beds to include hours of work and attendance at educational programs. (III)

57.11(2) There shall be a written job description developed for each category of worker in facilities of more than 15 beds. The job description shall include title of job, job summary, age range, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

57.11(3) There shall be written personnel policies for each facility. Personnel policies shall include the following requirements:

- a.* Employees shall have a physical examination before employment. (I, II, III)
- b.* Employees shall have a physical examination at least every four years. (I, II, III)
- c.* Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.11(4) Health certificates for all employees shall be available for review. (III)

57.11(5) Rescinded IAB 10/19/88, effective 11/23/88.

57.11(6) There shall be written policies for emergency medical care for employees and residents in case of sudden illness or accident, which includes the individuals to be contacted in case of emergency. (III)

57.11(7) The facility shall have a written agreement with a hospital for the timely admission of a resident who, in the opinion of the attending physician, requires hospitalization. (III)

57.11(8) The residential care facility shall have established policies concerning the control, investigation, and prevention of infections within the facility. (III)

57.11(9) Each facility licensed as a residential care facility shall provide an organized continuous 24-hour program of care commensurate with the needs of the residents of the home and under the direction of an administrator whose combined training and supervisory experience is such as to ensure adequate and competent care. (III)

57.11(10) Prior to the removal of a deceased resident/patient from a facility, the funeral director or person responsible for transporting the body shall be notified by the facility staff of any special

precautions that were followed by the facility having to do with the mode of transmission of a known or suspected communicable disease. (III)

57.11(11) Each facility shall have a written and implemented infection control program addressing the following:

a. Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)

b. Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

c. Dressings, soaks, or packs; (I, II, III)

d. Infection identification; (I, II, III)

e. Resident care procedures to be used when there is an infection present consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

f. Sanitation techniques for resident care equipment; (I, II, III)

g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)

h. Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

57.11(12) Aseptic techniques. If a resident needs any of the treatment or devices on the list below, written and implemented procedures regarding aseptic techniques shall be followed.

a. Intravenous or central line catheter consistent with Guideline for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)

b. Urinary catheter, (I, II, III)

c. Respiratory suction, oxygen or humidification, (I, II, III)

d. Decubitus care, (I, II, III)

e. Tracheostomy, (I, II, III)

f. Nasogastric or gastrostomy tubes, (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—57.12(135C) Personnel.

57.12(1) *General qualifications.*

a. No person with a current record of habitual alcohol intoxication or addiction to the use of drugs shall serve in a managerial role of a residential care facility. (II)

b. No person under the influence of alcohol or intoxicating drugs shall be permitted to provide services in a residential care facility. (II)

c. No person shall be allowed to provide services in a facility if the person has a disease;

(1) Which is transmissible through required workplace contact, (I, II, III)

(2) Which presents a significant risk of infecting others, (I, II, III)

(3) Which presents a substantial possibility of harming others, and (I, II, III)

(4) For which no reasonable accommodation can eliminate the risk. (I, II, III)

Refer to Guidelines for Infection Control in Hospital Personnel, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923402 to determine (1), (2), (3) and (4).

d. Reserved.

e. Individuals with either physical or mental disabilities may be employed for specific duties, but only if that disability is unrelated to that individual's ability to perform the duties of the job. (III)

57.12(2) *Supervision and staffing.*

a. Staffing.

(1) In a facility that is licensed for more than one level of care, where the facility consists of a single building or of contiguous buildings, the department shall establish on an individual facility basis the numbers and qualifications of the staff required in a residential care facility, based on the needs of the residents in that facility.

(2) In a facility licensed only for residential care the facility shall provide the following minimum staffing ratios of personal care staff:

Days—1:25 or less (II, III)

Evenings—1:35 or less (II, III)

Nights—1:45 or less (II, III)

Additional staffing above the minimum ratio may be required by the department commensurate with the needs of individual residents.

b. Personnel in a residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed at all times in facilities over 15 beds. (II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (II, III)

d. Physician's orders shall be implemented by qualified personnel. (II, III)

57.12(3) *Employee criminal record checks, child abuse checks and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 as amended by 2013 Iowa Acts, Senate File 347, and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

[ARC 0903C, IAB 8/7/13, effective 9/11/13]

481—57.13(135C) Admission, transfer, and discharge.

57.13(1) *General admission policies.*

a. No resident shall be admitted to or retained in a residential care facility who is in need of greater services than the facility can provide. (II, III)

b. No residential care facility shall admit more residents than the number of beds for which it is licensed. (II, III)

c. There shall be no more beds erected than is stipulated on the license. (II, III)

d. There shall be no more beds erected in a room than its size and other characteristics will permit. (II, III)

e. The admission of a resident to a residential care facility shall not give the facility or any employee of the facility the right to manage, use, or dispose of any property of the resident except with the written authorization of the resident or the resident's legal representative. (III)

f. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and safe and orderly management of the residential care facility as required by these rules. (III)

g. A residential care facility shall provide for the safekeeping of personal effects, funds, and other property of its residents. The facility may require that items of exceptional value or which would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

h. Rescinded, effective 7/14/82.

i. Funds or properties received by the residential care facility, belonging to or due a resident, expendable for the resident's account, shall be trust funds. (III)

j. Infants and children under the age of 16 shall not be admitted to health care facilities for adults unless given prior written approval by the department. A distinct part of a health care facility, segregated from the adult section, may be established based on a program of care submitted by the licensee or applicant which is commensurate with the needs of the residents of the health care facility and has received the department's review and approval. (III)

k. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity. (III)

l. Upon the verified petition of the county board of supervisors, the district court may appoint the administrator of a county care facility as conservator or guardian or both of a resident of such county care facility. Such administrator shall serve as conservator or guardian or both without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards. (III)

57.13(2) Discharge or transfer.

a. Prior notification shall be made to the next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

b. Proper arrangements shall be made by the residential care facility for the welfare of the resident prior to the transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative. (III)

c. The licensee shall not refuse to discharge or transfer a resident when the physician, family, resident, or legal representative requests such transfer or discharge. (II, III)

d. Advance notification by telephone will be made to the receiving facility prior to the transfer of any resident. (III)

e. When a resident is transferred or discharged, the appropriate record as set forth in 57.16(1) will accompany the resident. (II, III)

f. Prior to the transfer or discharge of a resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being sent. (II, III)

481—57.14(135C) Contracts. Each contract shall:

57.14(1) State the base rate or scale per day or per month, the services included, and the method of payment; (III)

57.14(2) Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the contract shall:

a. Stipulate that no further additional fees shall be charged for items not contained in complete schedule of services as set forth in subsection 2; (III)

b. State the method of payment of additional charges; (III)

c. Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

d. State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services by a barber, beautician, etc. (III)

57.14(3) Contain an itemized list of those services, with the specific fee the resident will be charged and method of payment, as related to the resident's current condition, based on the program assessment at the time of admission, which is determined in consultation with the administrator; (III)

57.14(4) Include the total fee to be charged initially to the specific resident; (III)

57.14(5) State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (III) Furthermore, the contract shall provide that the facility shall give:

a. Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (III)

b. Notification to the resident, or responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such

revised additional charges begin. If notification is given orally, subsequent written notification must be also given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (III)

57.14(6) State the terms of agreement in regard to refund of all advance payments, in the event of transfer, death, voluntary, or involuntary discharge; (III)

57.14(7) State the terms of agreement concerning the holding and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party.

a. The facility shall ask the resident or responsible party if they want the bed held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II)

b. The facility shall reserve the bed when requested for as long as payments are made in accordance with the contract. (II)

57.14(8) State the conditions under which the involuntary discharge or transfer of a resident would be effected; (III)

57.14(9) State the conditions of voluntary discharge or transfer; (III)

57.14(10) Set forth any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter; (III)

57.14(11) Each party shall receive a copy of the signed contract. (III)

481—57.15(135C) Physical examinations.

57.15(1) Each resident in a residential care facility shall have a designated licensed physician, who may be called when needed. (III)

57.15(2) Each resident admitted to a residential care facility shall have had a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the physician, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of chief complaints, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

57.15(3) Arrangements shall be made to have a physician available to furnish medical care in case of emergency. (II, III)

57.15(4) Rescinded, effective 7/14/82.

57.15(5) The person in charge shall immediately notify the physician of any accident, injury, or adverse change in the resident's condition. (I, II, III)

57.15(6) Each resident shall be visited by or shall visit the resident's physician at least once each year. The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the physician. (III)

57.15(7) Residents shall be admitted to a residential care facility only on a written order signed by a physician certifying that the individual being admitted requires no more than personal care and supervision but does not require nursing care. (III)

This rule is intended to implement Iowa Code section 135C.23(2).
[ARC 0663C, IAB 4/3/13, effective 5/8/13]

481—57.16(135C) Records.

57.16(1) Resident record. The licensee shall keep a permanent record on all residents admitted to a residential care facility with all entries current, dated, and signed. (III) The record shall include:

- a. Name and previous address of resident; (III)
- b. Birth date, sex, and marital status of resident; (III)
- c. Church affiliation; (III)
- d. Physician's name, telephone number, and address; (III)
- e. Dentist's name, telephone number, and address; (III)
- f. Name, address, and telephone number of next of kin or legal representative; (III)
- g. Name, address, and telephone number of person to be notified in case of emergency; (III)
- h. Mortician's name, telephone number, and address; (III)
- i. Pharmacist's name, telephone number, and address; (III)
- j. Physical examination and medical history; (III)
- k. Certification by the physician that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
- l. Physician's orders for medication, treatments, and diet in writing and signed by the physician quarterly; (III)
- m. A notation of yearly or other visits to physician or other professional services; (III)
- n. Any change in the resident's condition; (II, III)
- o. If the physician has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medications, treatments, and diet prescribed by the physician for each resident; (III)
- p. If the physician has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration; (II)
- q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)
- r. A notation describing condition on admission, transfer, and discharge; (III)
- s. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death; (III)
- t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
- u. Disposition of valuables. (III)

57.16(2) Incident record.

- a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (III)
- b. Report of incidents shall be in detail on a printed incident report form. (III)
- c. The person in charge at the time of the incident shall oversee the preparation and sign the incident report. (III)
- d. The report shall cover all accidents whether there is apparent injury or where hidden injury may have occurred. (III)
- e. The report shall cover all accidents or unusual occurrences within the facility or on the premises affecting residents, visitors, or employees. (III)
- f. A copy of the incident report shall be kept on file in the facility. (III)

57.16(3) Retention of records.

- a. Records shall be retained in the facility for five years following termination of services. (III)
- b. Records shall be retained within the facility upon change of ownership. (III)
- c. Rescinded, effective 7/14/82.

d. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician. (III)

57.16(4) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

57.16(5) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: Name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, date and reason for discharge or resignation. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

481—57.17(135C) Resident care and personal services.

57.17(1) Beds shall be made daily and adjusted as necessary. A complete change of linen shall be made at least once a week and more often if necessary. (III)

57.17(2) Residents shall receive sufficient supervision so that their personal cleanliness is maintained. (II, III)

57.17(3) Residents shall have clean clothing as needed to present a neat appearance, be free of odors, and to be comfortable. Clothing shall be appropriate to their activities and to the weather. (III)

57.17(4) Rescinded, effective 7/14/82.

57.17(5) Residents shall be encouraged to leave their rooms and make use of the recreational room or living room of the facility. (III)

57.17(6) Residents shall not be required to pass through another's bedroom to reach a bathroom, living room, dining room, corridor, or other common areas of the facility. (III)

57.17(7) Rescinded, effective 7/14/82.

57.17(8) Uncontrollable residents shall be transferred or discharged from the facility in accordance with contract arrangements and requirements of Iowa Code chapter 135C. (II, III)

57.17(9) Residents shall be required to bathe at least twice a week. (II, III)

57.17(10) Nonambulatory residents.

a. All nonambulatory residents shall be housed on the grade level floor. (II)

b. These provisions in paragraph "a" above relating to nonambulatory residents are not applicable if the facility has a suitably sized elevator.

481—57.18 Rescinded, effective 7/14/82.

481—57.19(135C) Drugs.

57.19(1) Drug storage.

a. Residents who have been certified in writing by the physician as capable of taking their own medications, may retain these medications in their bedroom but locked storage must be provided. (III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) A cabinet with a lock shall be provided which can be used for storage of drugs, solutions, and prescriptions; (III)

(2) A bathroom shall not be used for drug storage; (III)

(3) The drug storage cabinet shall be kept locked when not in use; (III)

(4) The drug storage cabinet key shall be in the possession of the employee charged with the responsibility of administering medications; (II)

(5) Schedule II drugs, as defined by Iowa Code chapter 204, shall be kept in a locked box within the locked medication cabinet; (II, III)

(6) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items; (III)

(7) Drugs for external use shall be stored separately from drugs for internal use; (III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs. They shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom and made accessible only to authorized persons; (I, II)

(9) The drug cabinet shall have a work counter. Both the counter and cabinet shall be well-lighted; (III)

(10) Running water shall be available in the room in which the medicine cabinet is located or in an adjacent room; (III)

(11) Inspection of drug storage condition shall be made by the administrator and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certifying absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current physician's order, and drugs improperly stored. (III)

(12) Double-locked storage of Schedule II drugs shall not be required under single-unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

c. Bulk supplies of prescription drugs shall not be kept in a residential care facility unless a licensed pharmacy is established in the facility under the direct supervision and control of a pharmacist. (III)

57.19(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or physician issuing the drug. Where unit dose is used, prescribed medications shall, as a minimum, indicate the resident's full name, physician's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. Paper envelopes shall not be considered standard containers. (III)

b. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

c. The medication for each resident shall be kept or stored in the original containers. (II, III)

d. When a resident is discharged or leaves the facility, the unused prescription shall be sent with the resident or with a legal representative only upon the written order of a physician. (III)

e. Unused prescription drugs prescribed for residents who have died shall be destroyed by the person in charge with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the attending physician. (II, III)

g. No medications prescribed for one resident may be administered to or allowed in the possession of another resident. (II)

h. Instructions shall be requested of the Iowa board of pharmacy examiners concerning disposal of unused Schedule II drugs prescribed for residents who have died or for whom the Schedule II drug was discontinued. (III)

i. There shall be a formal routine for the proper disposal of discontinued medications within a reasonable but specified time. These medications shall not be retained with the resident's current medications. Discontinued drugs shall be destroyed by a responsible person with a witness and notation made to that effect or returned to the pharmacist for destruction or resident credit. Drugs listed under the Schedule II drugs shall be disposed of in accordance with the provisions of the Iowa board of pharmacy examiners. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic stop order may vary for different types of drugs. The personal physician of the resident, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to keep possession of any medications unless the attending physician has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the attending physician. (II)

m. Each facility shall establish a policy in conjunction with a licensed pharmacist to govern distributing prescribed medication to residents who are on leave from a facility. (III)

(1) Medication may be issued to residents who will be on leave from a facility for less than 24 hours. Notwithstanding the prohibition against paper envelopes in 57.19(2) "a," non-child-resistant containers may be used. Each container may hold only one medication. A label on each container shall indicate the date, the resident's name, the facility, the medication, its strength, dose, and time of administration.

(2) Medication for residents on leave from a facility longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy examiners.

(3) Medication distributed as above may be issued only by facility personnel responsible for administering medication.

57.19(3) Drug administration.

a. A properly trained person shall be charged with the responsibility of administering nonparenteral medications.

b. The individual shall have knowledge of the purpose of the drugs, their dangers, and contraindications.

c. This person shall be a licensed nurse or physician or shall have successfully completed a department-approved medication aide course or passed a department-approved medication aide challenge examination administered by an area community college.

d. Prior to taking a department-approved medication aide course, the individual shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination;

(2) Be employed in the same facility for at least six consecutive months prior to the start of the medication aide course. This requirement is not subject to waiver.

(3) Have a letter of recommendation for admission to the medication aide course from the employing facility.

e. A person who is a nursing student or a graduate nurse may take the challenge examination in place of taking a medication aide course. This individual shall do all of the following before taking the medication aide challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination;

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination;

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating the individual is competent in medication administration.

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination.

The requirements of paragraph "d" of this subrule do not apply to this individual.

g. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. (II) In facilities where the unit dose system is used, the person assigned the responsibility must complete the procedure by observing the actual act of swallowing the medication and charting the medication. Medications shall be prepared on the same shift of the same day that they are administered, (II) unless the unit dose system is used.

h. Injectable medications shall be administered as permitted by Iowa law by a qualified nurse, physician, pharmacist, or physician assistant (PA).

i. Residents certified by their physician as capable of injecting their own insulin may do so. Insulin may be administered pursuant to “*h*” above or as otherwise authorized by the resident’s physician. Authorization by the physician shall:

- (1) Be in writing,
- (2) Be maintained in the resident’s record,
- (3) Be renewed quarterly,
- (4) Include the name of the individual authorized to administer the insulin,
- (5) Include documentation by the physician that the authorized person is qualified to administer insulin to that resident.

j. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident. (II)

k. The unit dose system may be used by the facility.

l. In a freestanding residential care facility licensed for 15 or fewer beds, a person who has successfully completed a state-approved medication manager course may administer medications.

[ARC 1050C, IAB 10/2/13, effective 11/6/13]

481—57.20(135C) Dental services.

57.20(1) The residential care facility personnel shall assist residents to obtain regular and emergency dental services. (III)

57.20(2) Transportation arrangements shall be made when necessary for the resident to be transported to the dentist’s office. (III)

57.20(3) Dental services shall be performed only on the request of the resident, responsible relative, or legal representative. The resident’s physician shall be advised of the resident’s dental problems. (III)

57.20(4) All dental reports or progress notes shall be included in the clinical record. (III)

57.20(5) Personal care staff shall assist the resident in carrying out dentist’s recommendations. (III)

57.20(6) Dentists shall be asked to participate in the in-service program of the facility. (III)

481—57.21(135C) Dietary.

57.21(1) *Dietary staffing.*

a. In facilities licensed for over 15 beds, persons in charge of meal planning and food preparation shall complete the home study course on sanitation and food preparation offered by the department. (III)

b. In facilities licensed for over 15 beds, food service personnel shall be on duty during a 12-hour span extending from the preparation of breakfast through supper. (III)

c. There shall be written work schedules and time schedules covering each type of job in the food service department. These work and time schedules shall be posted or kept in a notebook which is available for use in the food service area in facilities over 15 beds. (III)

57.21(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet nutritional needs of residents in accordance with the physician’s orders. (II)

b. Menus shall be planned and served to include foods and amounts necessary to meet the recommended daily dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. (II) Recommended daily dietary allowances are:

(1) Milk - two or more cups served as beverage or used in cooking;

(2) Meat group - two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group - four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group - four or more servings of whole-grain, enriched or restored;

(5) Foods other than those listed will usually be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. At least three meals or their equivalent shall be served daily, at regular hours. (II)

(1) There shall be no more than a 14-hour span between substantial evening meal and breakfast. (II, III)

(2) To the extent medically possible, bedtime nourishments shall be offered routinely to all residents. Special nourishments shall be available when ordered by physician. (II, III)

d. Menus shall include a variety of foods prepared in various ways. The same menu shall not be repeated on the same day of the following week. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic service department for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. A file of tested recipes adjusted to the number of people to be fed in the facility shall be maintained. (III)

57.21(3) *Dietary storage, food preparation, and service.*

a. All food and drink shall be clean, wholesome, free from spoilage, and safe for human consumption. (II, III)

b. The use of foods from salvaged, damaged, or unlabeled containers shall be prohibited. (III)

c. All perishable or potentially hazardous food shall be stored at safe temperatures of 45°F (7°C) or below, or 140°F (60°C) or above. (III)

d. No perishable food shall be allowed to stand at room temperature any longer than is required to prepare and serve. (III)

e. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the nutrition section of the department of health. (II, III)

f. Table service shall be attractive. Dishes shall be free of cracks, chips, and stains. (III)

g. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

h. Poisonous compounds shall not be kept in food storage or preparation areas. (II)

57.21(4) *Sanitation in food preparation area.*

a. "Food Service Sanitation Manual", revised 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, U.S. Government Printing Office, Washington, D.C., shall be used as the established, nationally recognized reference for establishing and determining satisfactory compliance with food service sanitation.

b. Residents shall not be allowed in the food preparation area. (III)

c. In facilities licensed for over 15 beds, the kitchen shall not be used for serving meals to residents, food service personnel, or other staff. (III)

d. All foods, while being stored, prepared, displayed, served, or transported shall be protected against contamination from dust, flies, rodents, and other vermin. (II, III)

e. Food shall be protected from unclean utensils and worn surfaces, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage. (II, III)

f. All appliances and work areas shall be kept clean. (III)

g. There shall be written procedures established for cleaning all work and serving areas in facilities over 15 beds. (III)

h. A schedule for duties to be performed daily shall be posted in each food area. (III)

i. All cooking equipment in facilities of 15 or more beds shall be provided with a properly sized exhaust system and hood to eliminate excess heat, moisture, and odors from the kitchen. (III)

j. Spillage and breakage shall be cleaned up immediately. (III)

k. All garbage not mechanically disposed of shall be kept in nonabsorbent, cleanable containers pending disposal. All filled containers shall be covered and stored in a sanitary manner. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests, or nonfood service staff. (III)

m. The walls, ceilings, and floors of all rooms in which food is prepared and served shall be in good repair, smooth, washable, and shall be kept clean. (III)

n. There shall be no washing, ironing, sorting or folding of laundry in the food service area. Dirty linen shall not be carried through the food service area unless it is in sealed, leakproof containers. (III)

o. Ice shall be stored and handled in such a manner as to prevent contamination. Ice scoops should be sanitized daily and kept in a clean container. (III)

p. There shall be no animals or birds in the food preparation area. (III)

q. No dishes or cooking utensils shall be towel dried. (III)

r. In facilities over 15 beds, a mechanical dishwasher is required. (III)

s. If there is a dishwashing machine, it must provide a wash temperature of 140°F (60°C) to 160°F (71°C) and a rinse temperature of 170°F (76°C) to 180°F (82°C). In a freestanding residential care facility licensed for 15 or fewer beds, a wash and rinse temperature of 140°F (60°C) to 160°F (71°C) shall be acceptable. (III)

t. A three-compartment pot and pan sink with 110°F (43°C) to 115°F (46°C) water for washing, a compartment for rinsing with water at 170°F (76°C) to 180°F (82°C) for sanitizing with space for air drying, or a two-compartment sink with access to a mechanical dishwasher for sanitizing all utensils shall be provided. (III)

u. All dishes, silverware, and cooking utensils shall be stored above the floor in a sanitary manner, in a clean, dry place protected from flies, splashes, dust, and other contaminants. (III)

v. Procedures for washing and handling dishes shall be followed in order to protect the welfare of the residents and employees. Persons handling dirty dishes shall not handle clean dishes without washing their hands. (III)

w. Dishes, silverware, and cooking utensils shall be properly cleaned by prerinsing or scraping, washing, sanitizing, and air-drying. (III)

57.21(5) *Hygiene of food service personnel.*

a. Food service personnel shall be free of communicable diseases and practice hygienic food-handling techniques. In the event food service employees are assigned duties outside the dietetic service, these duties shall not interfere with sanitation, safety, or time required for dietetic work assignments. Personnel recovering from a diagnosed intestinal infection shall submit a report from their physician showing freedom from infection before returning to work in the food service department. (II, III)

b. Employees shall wear clean, washable uniforms that are not used for duties outside the food service area. (III)

c. Hairnets shall be worn by all food service personnel. Individuals with beards shall provide for total enclosure of facial hair. (III)

d. Clean aprons and hairnets shall be available for use by other personnel in emergency situations. (III)

e. Persons handling food shall be knowledgeable of good hand-washing techniques. A hand-wash sink shall be provided in or adjacent to the food service area. Continuous on-the-job training on sanitation shall be encouraged. (III)

f. The use of tobacco shall be prohibited in the kitchen. (III)

57.21(6) *Food and drink.* All food and drink consumed within the facility shall be clean and wholesome and comply with local ordinances and applicable provisions of state and federal laws. (II, III)

481—57.22(135C) Service plan.

57.22(1) Prior to admission of a resident, the administrator or the administrator's designee shall develop a written and organized orientation plan. The plan shall be designed to assist the resident in adapting to the facility and to assist the facility staff in becoming knowledgeable of the resident and the resident's needs. (III)

57.22(2) Within 30 days of admission, the administrator or the administrator's designee shall, in conjunction with the resident, other facility staff or any organization that works with or serves the resident, develop a written, individualized, and integrated program of ongoing services for the resident. (III)

a. The program shall be planned and implemented to address the resident's priorities and assessed needs, such as living, rehabilitation, activity, behavioral, emotional, mental health and social, and shall take into consideration the resident's personal goals and preferences, including the resident's preferred living situation. (III)

b. The service plan shall include specific goals and objectives with regular documentation of each. (III)

c. The service plan shall be reviewed at least quarterly, or more often as necessary. (III)

57.22(3) Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change, and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's family members or responsible party. (III)

481—57.23(135C) Resident activities program.

57.23(1) Each residential care facility shall provide an organized resident activity program for the group and for the individual resident which shall include suitable activities for evenings and weekends. (III)

a. The activity program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's physician. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The program shall include individual goals for each resident. (III)

c. The activity program shall include both group and individual activities. (III)

d. No resident shall be forced to participate in the activity program. (III)

57.23(2) Coordination of activities program.

a. Each residential care facility with over 15 beds shall employ a person to direct the activities program. (III)

b. Staffing for the activity program shall be provided on the minimum basis of 45 minutes per licensed bed per week. (II, III)

c. The activity coordinator shall have completed the activity coordinators' orientation course offered through the department within six months of employment or have comparable training and experience as approved by the department. (III)

d. The activity coordinator shall attend workshops or educational programs which relate to activity programming. These shall total a minimum of ten contact hours per year. These programs shall be approved by the department. (III)

e. There shall be a written plan for personnel coverage when the activity coordinator is absent during scheduled working hours. (III)

57.23(3) Duties of activity coordinator. The activity coordinator shall:

a. Have access to all residents' records excluding financial records; (III)

b. Coordinate all activities, including volunteer or auxiliary activities and religious services; (III)

c. Keep all necessary records including:

(1) Attendance; (III)

(2) Record individual resident progress notes at least every three months; (III)

(3) Monthly calendars, prepared in advance. (III)

d. Coordinate the activity program with all other services in the facility; (III)

e. Participate in the in-service training program in the facility. This shall include attending as well as presenting sessions. (III)

57.23(4) Supplies, equipment, and storage.

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. These may include: books (standard and large print), magazines,

newspapers, radio, television, and bulletin boards. Also appropriate would be box games, game equipment, songbooks, cards, craft supplies, record player, movie projector, piano, outdoor equipment, etc. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

¹ Emergency, pursuant to Iowa Code section 17A.5(2)“b”(2).

² Objection filed 2/14/79, see insert IAC 3/7/79.

481—57.24(135C) Certified volunteer long-term care ombudsman program. A certified volunteer long-term care ombudsman appointed in accordance with Iowa Code section 231.45 as amended by 2013 Iowa Acts, Senate File 184, shall operate within the scope of the rules for volunteer ombudsmen promulgated by the office of long-term care ombudsman and the Iowa department on aging. [ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—57.25(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (III)

57.25(1) Fire safety.

a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

57.25(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be posted. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (III)

57.25(3) Resident safety.

a. Residents shall be permitted to smoke only where proper facilities are provided. Smoking shall not be permitted in bedrooms. Smoking by residents considered to be careless shall be prohibited except when under direct supervision. (II, III)

b. Smoking is prohibited in all rooms where oxygen is being administered or in rooms where oxygen is stored. (II, III)

c. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

d. Smoking shall be permitted only in posted areas. (II, III)

e. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (II, III)

57.25(4) Restraints.

a. Rescinded, effective 7/14/82.

b. Residents shall not be kept behind locked doors;

c. Temporary seclusion of residents shall be used only in an emergency to prevent injury to the resident or to others pending transfer to appropriate placement;

d. A divided door equipped with a securing device that may be readily opened by personnel shall be considered an appropriate means of temporarily confining a resident in the resident's room;

e. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

481—57.26(135C) Housekeeping.

57.26(1) Written procedures shall be established and implemented for daily and weekly cleaning schedules. (III)

57.26(2) Each resident unit shall be cleaned on a routine schedule. (III)

57.26(3) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (III)

57.26(4) A hallway or corridor shall not be used for storage of equipment. (III)

57.26(5) All odors shall be kept under control by cleanliness and proper ventilation. (III)

57.26(6) Clothing worn by personnel shall be clean and washable. (III)

57.26(7) Housekeeping and maintenance personnel shall be provided with well-constructed and properly maintained equipment appropriate to the function for which it is to be used. (III)

57.26(8) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (III)

57.26(9) Polishes used on floors shall provide a nonslip finish. (III)

57.26(10) Throw or scatter rugs shall not be permitted. (III)

57.26(11) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

57.26(12) Residents shall not have access to storage areas for all cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials. (II, III)

57.26(13) Sufficient numbers of noncombustible trash containers, which have covers, shall be available. (III)

57.26(14) Personal possessions of residents which may constitute hazards to themselves or to others shall be removed and stored. (III)

481—57.27(135C) Maintenance.

57.27(1) Each facility shall establish a maintenance program to ensure the continued maintenance of the facility, to promote good housekeeping procedures, and ensure sanitary practices throughout the facility. In facilities over 15 beds, this program shall be established in writing and available for review by the department. (III)

57.27(2) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (III)

57.27(3) Draperies and furniture shall be clean and in good repair. (III)

57.27(4) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (III)

57.27(5) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the national electric code. (III)

57.27(6) All plumbing fixtures shall function properly and comply with the state plumbing code. (III)

57.27(7) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (III)

57.27(8) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (III)

57.27(9) The facility shall be kept free of flies, other insects, and rodents. (III)

57.27(10) Janitor closet.

a. Facilities shall be provided with storage for cleaning equipment, supplies, and utensils. (III)

b. Mops, scrub pails, and other cleaning equipment used in the resident areas shall not be stored or used in the dietary area. (III)

c. In facilities licensed for over 15 beds, a janitor's closet shall be provided. It shall be equipped with water for filling scrub pails and a janitor's sink for emptying scrub pails. (III)

481—57.28(135C) Laundry.

57.28(1) All soiled linens shall be collected in and transported to the laundry room in closed, leakproof laundry bags or covered, impermeable containers. (III)

57.28(2) Except for related activities, the laundry room shall not be used for other purposes. (III)

57.28(3) Procedures shall be written for the proper handling of wet, soiled, and contaminated linens. (III)

57.28(4) Residents' personal laundry shall be marked with an identification. (III)

57.28(5) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

57.28(6) If laundry is done in the facility, the following shall be provided:

a. A clean, dry, well-lighted area to accommodate a washer and dryer of adequate size to serve the needs of the facility. (III)

b. In facilities of over 15 beds, the laundry room shall be divided into separate areas, one for sorting soiled linen and one for sorting and folding clean linen. (III)

481—57.29(135C) Garbage and waste disposal.

57.29(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

57.29(2) All containers for refuse shall be watertight, rodent-proof, and have tight-fitting covers. (III)

57.29(3) All containers shall be thoroughly cleaned each time the containers are emptied. (III)

57.29(4) All wastes shall be properly disposed of in compliance with local ordinances and state codes. (III)

57.29(5) Special provision shall be made for the disposal of soiled dressings and similar items in a safe, sanitary manner. (III)

481—57.30(135C) Buildings, furnishings, and equipment.

57.30(1) *Buildings—general requirements.*

a. For purposes of computation of usable floor space in bedrooms and other living areas of the facility, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space may include irregularities in the rooms such as alcoves and offsets with approval of the department. Usable floor space shall not include space needed for corridor door swings or wardrobes being used as a substitute for closet space. (III)

b. Battery-operated, portable emergency lights in good working condition shall be available at all times, at a ratio of one light per one employee on duty from 6 p.m. to 6 a.m. (III)

c. All windows shall be supplied with curtains and shades or drapes which are kept clean and in good repair. (III)

d. Light fixtures shall be so equipped to prevent glare and to prevent hazards to the residents. (III)

e. Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by residents and within reach of residents shall be covered or protected to prevent injury or burns to residents. (II, III)

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh. (III)

g. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

h. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

i. No part of any room shall be enclosed, subdivided, or partitioned unless such part is separately lighted and ventilated and meets such other requirements as its usage and occupancy dictates except closets used for the storage of residents' clothing. (III)

j. All stairways in resident-occupied areas shall have substantial handrails on both sides. (III)

k. Each open stairway shall have protective barriers. (III)

l. Screens of 16 mesh per square inch shall be provided at all openings. (III)

m. Screen doors shall swing outward and be self-closing. At the discretion of the state fire marshal, screens for fire doors may swing in. (III)

n. All resident rooms shall have a door. (III)

o. All rooms in resident-occupied areas shall have general lighting switched at the entrance to each room. (III)

57.30(2) Furnishings and equipment.

- a. All furnishings and equipment shall be durable, cleanable, and appropriate to its function and in accordance with the department's approved program of care. (III)
- b. All resident areas shall be decorated, painted, and furnished to provide a home-like atmosphere. (III)
- c. Upholstery materials shall be moisture- and soil-resistant, except on furniture provided by the resident and the property of the resident. (III)
- d. Night lights shall be provided in corridors, at stairways, attendant's stations and residents' bedrooms, and hazardous areas with no less than one foot-candle throughout the area at all times. (III)

57.30(3) Dining and living rooms.

- a. Every facility shall have a dining room and a living room easily accessible to all residents. (III)
- b. Dining rooms and living rooms shall at no time be used as bedrooms. (III)
- c. Dining rooms and living rooms shall be available for use by residents at appropriate times to provide periods of social and diversional individual and group activities. (III)
- d. A combination dining room and living room may be permitted if the space requirements of a multipurpose room as provided in 57.30(3) "e" are met. (III)
- e. Multipurpose rooms. When space is provided for multipurpose dining and activities and recreational purposes, the area shall total at least 30 square feet per licensed bed for the first 100 beds and 27 square feet per licensed bed for all beds in excess of 100. An open area of sufficient size shall be provided to permit group activities such as religious meetings or presentation of demonstrations or entertainment.

f. Living rooms.

- (1) Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. (III)
- (2) Living rooms shall be suitably furnished. (III)
- (3) When space is provided to be used only for activities and recreational purposes, the area shall be at least 15 square feet per licensed bed. At least 50 percent of the required area must be in one room. (III)

g. Dining rooms.

- (1) Dining rooms shall be furnished with dining tables and chairs appropriate to the size and function of the facility. These rooms and furnishings shall be kept clean and sanitary. (III)
- (2) When space is provided to be used only for dining, the area shall total at least 15 square feet per licensed bed. (III)

57.30(4) Bedrooms.

- a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)
- b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)
- c. Each resident shall have a bedside table with a drawer to accommodate personal possessions. (III)
- d. There shall be a comfortable chair, either a rocking chair or arm chair, per resident bed. The resident's personal wishes shall be considered. (III)
- e. There shall be drawer space for each resident's clothing. In a multiple bedroom, drawer space shall be assigned each resident. (III)
- f. Walls, ceilings, and floors shall have easily cleanable surfaces and shall be kept clean and in good repair. (III)
- g. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- h. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1' 10" deep by 1' 8" wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)

- i.* Beds shall not be placed with the head of the bed in front of a window or radiator. (III)
- j.* Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless it is covered so as to protect the resident from contact with it or from excessive heat. (III)
- k.* Reading lamps shall be provided each resident in the resident's room. (III)
- l.* Each room shall have sufficient accessible mirrors to serve residents' needs. (III)
- m.* Usable floor space of a room shall be no less than eight feet in any major dimension. (III)
- n.* Bedrooms shall have a minimum of 80 square feet of usable floor space per bed. (III)
- o.* There shall be no more than four residents per room. (III)
- p.* Each resident room shall be provided with light and ventilation by means of a window or windows with an area equal to one-eighth of the total floor area. The windows shall be openable. (III)

57.30(5) Bath and toilet facilities.

- a.* Provision shall be made for bars to hold individual towels and washcloths. (III)
- b.* All lavatories shall have paper towel dispensers and an available supply of soap. (III)
- c.* Minimum numbers of toilet and bath facilities shall be one lavatory, one toilet for each 10 residents, and one tub or shower for each 15 residents or fraction thereof. (III)
- d.* There shall be a minimum of one bathroom with tub or shower, toilet stool and lavatory on each floor in multistory buildings for facilities licensed for over 15 beds. Separate toilets for the sexes shall be provided. (III)
- e.* Grab bars shall be provided at all toilet stools, tubs, and showers. Grab bars, accessories, and anchorage shall have sufficient strength to sustain a deadweight of 250 pounds for five minutes. (III)
- f.* Each toilet room shall have a door. (III)
- g.* All toilet, bath, and shower facilities shall be supplied with adequate safety devices appropriate to the needs of the individual residents. Raised toilet seats shall be available for residents who are aged or infirm. (III)
- h.* Toilet and bath facilities shall have an aggregate outside window area of at least four square feet. Facilities having a system of mechanical ventilation are exempt from this regulation. (III)
- i.* Every facility shall provide a toilet and lavatory with grab bars for the public and staff. (III)

57.30(6) Heating. A centralized heating system capable of maintaining a minimum temperature of 78°F (26°C) shall be provided. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (III)

57.30(7) Water supply.

- a.* Every facility shall have an adequate water supply from an approved source. A municipal source of supply shall be considered as meeting this requirement. (III)
- b.* Private sources of supply shall be tested annually and the report submitted with the annual application for license. (III)
- c.* A bacterially unsafe source of supply shall be grounds for denial, suspension, or revocation of license. (III)
- d.* The department may require testing of private sources of supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
- e.* Hot and cold running water under pressure shall be available in the facility. (III)
- f.* Prior to construction of a new facility or new water source, private sources of supply shall be surveyed and shall comply with the requirements of the department. (III)

57.30(8) Sewage system.

- a.* Sewage shall be collected and disposed of in a manner approved by the department. Disposal into a municipal system will be considered as meeting this requirement. (III)
- b.* Private sewage systems shall conform to the rules and regulations of the department of environmental quality, state health department, and the natural resources council. (III)
- c.* Every facility shall have an interior plumbing system complete with flushing device. (III)

57.30(9) Attendant's station. In facilities over 15 beds, an attendant's station with a minimum of 40 square feet shall be provided which is centrally located in the resident area and shall have a well-lighted desk with the necessary equipment for the keeping of required records and supplies. (III)

481—57.31(135C) Family and employee accommodations.

57.31(1) Children under 14 years of age shall not be allowed into the service areas. (III)

57.31(2) The residents' bedrooms shall not be occupied by employees, family members of employees, or family members of the licensee. (III)

57.31(3) In facilities where the total occupancy of family, employees, and residents is five or less, one toilet and one tub or shower shall be the minimum requirement. (III)

57.31(4) In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

57.31(5) In all health care facilities, if the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for residents. (III)

481—57.32(135C) Animals. No animals shall be allowed within the facility except with written approval of the department and under controlled conditions. (III)

481—57.33(135C) Environment and grounds.

57.33(1) A residential care facility shall be constructed in a neighborhood free from excessive noise, dirt, polluted, or odorous air, or similar disturbances. (III)

57.33(2) There shall be an area available for outdoor activities calculated at 25 square feet per licensed bed. Open air porches may be included in meeting such requirements. (III)

481—57.34(135C) Supplies.

57.34(1) Linen supplies.

a. There shall be an adequate supply of linen so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom of odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Uncrowded and convenient storage shall be provided for linens, pillows, and bedding. (III)

57.34(2) First aid kit. A first aid emergency kit shall be available on each floor in every facility. (II, III)

57.34(3) General supplies.

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

481—57.35(135C) Residents' rights in general.

57.35(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 57.35(2) to 57.35(6)) and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, their families or legal representatives and the public and shall be reviewed annually. (II)

57.35(2) Policies and procedures regarding the admission, transfer, and discharge of residents shall ensure that:

a. Only those persons are accepted whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts. (II)

b. As changes occur in residents' physical or mental condition, necessitating services or care which cannot be adequately provided by the facility, they are transferred promptly to other appropriate facilities. (II)

57.35(3) Policies and procedures regarding the use of chemical and physical restraints shall define the use of restraints and identify the individual who may authorize the application of physical restraints in emergencies, and describe the mechanism for monitoring and controlling their use. (II)

57.35(4) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. (II)

57.35(5) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II)

57.35(6) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II)

a. The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from them. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

c. A statement shall be signed by the resident, or the resident's responsible party, if applicable, indicating an understanding of these rights and responsibilities, and shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. In the case of an intellectually disabled resident, the signature shall be witnessed by a person not associated with or employed by the facility. The witness may be a parent, guardian, Medicaid agency representative, etc. (II)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English speaking, deaf or blind residents of changes. (II)

57.35(7) Each resident or responsible party shall be fully informed in a contract as required in rule 57.14(135C), prior to or at the time of admission and during the resident's stay, of services available in the facility, and of related charges not covered by the facility's basic per diem rate. (II)

57.35(8) Each resident or responsible party shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated (as documented by a physician in the resident's record). Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, which may include, but is not limited to, nursing care, nutritional care, rehabilitation, restorative therapies, activities, and social work services. Each resident only participates in experimental research conducted under the U.S. Department of Health and Human Services protection from research risks policy and then only upon the resident's informed written consent. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a confused or intellectually disabled individual, the responsible party shall be informed by the physician of the resident's medical condition and be afforded the opportunity to participate in the planning of the resident's total care and medical treatment, to be informed of the medical condition, and to refuse to participate in experimental research. (II)

a. The requirement that residents shall be informed of their conditions, involved in the planning of their care, and advised of any significant changes in either shall be communicated to every physician responsible for the medical care of residents in the facility. (II)

b. The administrator or designee shall be responsible for working with attending physicians in the implementation of this requirement. (II)

c. If the physician determines or in the case of a confused or intellectually disabled resident the responsible party determines that informing the resident of the resident's condition is contraindicated, this decision and reasons for it shall be documented in the resident's record by the physician. (II)

d. Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirements of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). A resident being considered for participation in experimental research must be fully informed of the nature of the experiment, e.g., medication, treatment, and understand the possible consequences of participating or not participating. The resident's (or responsible party's) written informed consent must be received prior to participation. (II)

57.35(9) In residential care facilities which are also county care facilities, policies and procedures shall address the admission and retention of persons with histories of dangerous and disturbing behavior. For the purpose of this subrule, persons with histories of dangerous or disturbing behavior are those persons who have been committed for evaluation and found to be seriously mentally impaired pursuant to Iowa Code section 229.13 or 812.1 within six months of the request for admission to the facility. In addition to establishing the criteria for admission and retention of persons so defined, the policies and procedures shall provide for:

a. Reasonable precautions to prevent the resident from harming self, other residents, or employees of the facility.

b. Treatment of persons with mental illness as defined in Iowa Code section 229.1(1) which is provided in accordance with the individualized health care plan.

c. Ongoing and documented staff training on individualized health care planning for persons with mental illness.

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.36(135C) Involuntary discharge or transfer.

57.36(1) A facility shall not involuntarily discharge or transfer a resident from a facility except: for medical reasons; for the resident's welfare or that of other residents; for nonpayment for the resident's stay (as contained in the contract for the resident's stay), except as prohibited by Title XIX of the Social Security Act, 42 U.S.C. 1396 to 1396k and by reason of action pursuant to Iowa Code chapter 229. (I, II)

a. "Medical reasons" for transfer or discharge are based on the resident's needs and are determined and documented in the resident's record by the attending physician. Transfer or discharge may be required to provide a different level of care. (II)

b. "Welfare" of a resident or that of other residents refers to their social, emotional, or physical well-being. A resident might be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Evidence that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall be in writing and shall include specific information to support this determination. (II)

c. Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident or responsible party at least 30 days in advance of the proposed transfer or discharge. The 30-day requirement shall not apply in any of the following instances:

(1) If an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician. Emergency transfers or discharges may also be mandated to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) If the transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, physician, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

d. The notice required by paragraph “*c*” shall contain all of the following information:

- (1) The stated reason for the proposed transfer or discharge. (II)
- (2) The effective date of the proposed transfer or discharge. (II)
- (3) A statement in not less than 12-point type (elite), which reads: “You have a right to appeal the facility’s decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals (hereinafter referred to as “department”) within seven days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. Provision may be made for extension of the 14-day requirement upon request to the department of inspections and appeals designee in emergency circumstances. If you lose the hearing, you will not be transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than 5 days following final decision of such hearing. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.” (II)

e. A request for a hearing made under 57.36(1) “*d*”(3) shall stay a transfer or discharge pending a hearing or appeal decision. (II)

f. The type of hearing shall be determined by a representative of the department. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the licensee, resident, responsible party, and Iowa department on aging long-term care ombudsman of record, not later than five full business days after receipt of the request. This notice shall also inform the licensee, resident or responsible party that they have a right to appear at the hearing in person or be represented by their attorneys or other individual. The hearing shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. The Iowa department on aging long-term care ombudsman shall have the right to appear at the hearing.

g. The hearing shall be heard by a department of inspections and appeals designee pursuant to Iowa Code chapter 17A. (The hearing shall be public unless the resident or representative requests in writing that it be closed.) The licensee or designee shall have the opportunity to present to the representative of the department any oral testimony or written materials to show by a preponderance of the evidence just cause why a transfer or discharge may be made. The resident and responsible party shall also have an opportunity to present to the representative of the department any oral testimony or written material to show just cause why a transfer or discharge should not be made. In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge.

h. Based upon all testimony and material submitted to the representative of the department, the representative shall issue, in accordance with Iowa Code chapter 17A, written findings of fact and conclusions of law and issue a decision and order in respect to the adverse action. This decision shall be mailed by certified mail to the licensee, resident, responsible party, and department on aging long-term care ombudsman within 10 working days after the hearing has been concluded. The representative shall have the power to issue fines and citations against the facility in appropriate circumstances.

A request for review of a proposed decision in which the department is the final decision maker shall be made within 15 days of issuance of the proposed decision, unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. Failure to request review will preclude judicial review unless the department reviews a proposed decision upon its own motion within 15 days of the issuance of the decision.

i. A copy of the notice required by paragraph “*c*” shall be personally delivered to the resident and a copy placed in the resident’s record. A copy shall also be transmitted to the department, the resident’s responsible party, physician, the person or agency responsible for the resident’s placement, maintenance, and care in the facility, and the department on aging long-term care ombudsman.

j. If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

k. The involuntary transfer or discharge shall be discussed with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility within 48 hours after notice of discharge has been received. The explanation and discussion of the reasons for involuntary transfer or discharge shall be given by the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident's record. (II)

l. The resident shall receive counseling services before (by the sending facility) and after (by the receiving facility) the involuntary transfer to minimize the possible adverse effects of the involuntary transfer. Counseling shall be documented in the resident's record. (II)

(1) Counseling shall be provided by a qualified individual who meets one of the following criteria:

1. Has a bachelor's or master's degree in social work from an accredited college. (II)
2. Is a graduate of an accredited four-year college and has had at least one year of full-time paid employment in a social work capacity with a public or private agency. (II)
3. Has been employed in a social work capacity for a minimum of four years in a public or private agency. (II)
4. Is a licensed psychologist or psychiatrist. (II)
5. Is any other person of the resident's choice. (II)

(2) The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be discharged or transferred. (II)

(3) The receiving health care facility of a resident involuntarily discharged or transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

m. In the case of an emergency transfer or discharge as outlined in 57.36(1) "c"(1), the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident's file and it must contain all the information required by subparagraphs (1) and (2) of 57.36(1) "d." In addition, the notice must contain a statement in not less than 12-point type (elite), which reads: "You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Iowa state department of inspections and appeals within 7 days after receiving this notice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115 or you may write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083." A hearing requested pursuant to this subrule shall be held in accordance with paragraphs "f," "g," and "h." (II)

n. Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of a facility voluntarily closing, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

57.36(2) Intrafacility transfer:

a. Residents shall not be relocated from room to room within a licensed health care facility arbitrarily. (I, II) Involuntary relocation may occur only in the following situations, and the situation shall be documented in the resident's record.

- (1) Incompatibility with or disturbing to other roommates, as documented in the resident's record.
- (2) For the welfare of the resident or other residents of the facility.

(3) For medical, nursing or psychosocial reasons, as documented in the resident's record, as judged by the attending physician, nurse or social worker in the case of a facility which groups residents by medical, nursing or psychosocial needs.

(4) To allow a new admission to the facility which would otherwise not be possible due to separation of roommates by sex.

(5) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(6) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

- (1) Change from private pay status to Title XIX, except as outlined in 57.36(2) "a"(5). (II)
- (2) As punishment or behavior modification (except as specified in 57.36(2) "a"(1)). (II)
- (3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph "a," the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II)

d. If emergency relocation is required to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and the notification shall be documented. (II)

481—57.37(135C) Residents' rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

57.37(1) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of issues or pending decisions of the facility that affect them and their views shall be solicited prior to action. (II)

57.37(2) The facility shall implement a written procedure for registering and resolving grievances and recommendations by residents or their responsible party. The procedure shall ensure protection of the resident from any form of reprisal or intimidation. The written procedure shall include:

- a.* Designation of an employee responsible for handling grievances and recommendations. (II)
- b.* A method of investigating and assessing the validity of a grievance or recommendation. (II)
- c.* Methods of resolving grievances. (II)
- d.* Methods of recording grievances and actions taken. (II)

57.37(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, and certified volunteer long-term care ombudsman and the text of Iowa Code section 135C.46 to provide to residents a further course of redress. (II)

[ARC 1205C, IAB 12/11/13, effective 1/15/14]

481—57.38(135C) Financial affairs—management. Each resident, who has not been assigned a guardian or conservator by the court, may manage the resident's own personal financial affairs, and to the extent, under written authorization by the resident that the facility assists in management, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

57.38(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

57.38(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

57.38(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code subsection 135C.24(2). Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a confused or intellectually disabled resident, the resident's responsible party shall designate a method of disbursing the resident's funds. (II)

57.38(4) If the facility makes financial transactions on a resident's behalf, the resident must receive or acknowledge having seen an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

57.38(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's guardian. (II)

57.38(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's guardian. The department may report findings that resident funds have been used without written consent to the audits division or the local law enforcement agency, as appropriate. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.39(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. Each resident shall be free from chemical and physical restraints, except in an emergency for the shortest amount of time necessary to protect the resident from injury to the resident or to others, pending the immediate transfer to an appropriate facility. The decision to use restraints on an emergency basis shall be made by the designated charge person, who shall promptly report the action taken to the physician, and the reasons for using restraints shall be documented in the resident's record. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered to be a restraint. (II)

57.39(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (II)

57.39(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (II)

57.39(3) Drugs such as tranquilizers may not be used as chemical restraints to limit or control resident behavior for the convenience of staff. (II)

57.39(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

57.39(5) and 57.39(6) Rescinded IAB 12/11/13, effective 1/15/14.
[ARC 1204C, IAB 12/11/13, effective 1/15/14]

481—57.40(135C) Resident records. Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

57.40(1) The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

57.40(2) Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

57.40(3) The resident, or the resident's responsible party, shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted prior to making the record available to

the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

481—57.41(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (II)

57.41(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (II)

57.41(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

57.41(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

57.41(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

57.41(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—57.42(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code sections 35D.14 and 347B.5. (II)

57.42(1) Residents may not be used to provide a source of labor for the facility against their will. Physician's approval is required for all work programs. (I, II)

57.42(2) Residents who perform work for the facility must receive remuneration unless the work is part of their approved training program. Persons on the resident census performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—57.43(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

57.43(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

57.43(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor(s). (II)

b. The resident's physician documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility (this judgment must be made by the administrator and the reasons shall be documented and kept on file). (II)

57.43(3) Decisions to restrict a visitor are reviewed and reevaluated: each time the medical orders are reviewed by the physician; at least quarterly by the facility's staff; or at the resident's request. (II)

57.43(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

57.43(5) Telephones consistent with ANSI standards (405.1134(c)) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

57.43(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

57.43(7) Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, qualified intellectual disabilities professional, or facility administrator for refusing permission. (II)

57.43(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.44(135C) Resident activities. Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the attending physician or qualified intellectual disabilities professional as appropriate in the resident's resident record. (II)

57.44(1) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

57.44(2) All residents shall have the freedom to refuse to participate in these activities. (II)

[ARC 0766C, IAB 5/29/13, effective 7/3/13]

481—57.45(135C) Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided such use is not otherwise prohibited by these rules. (II)

57.45(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

57.45(2) Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

57.45(3) Any personal clothing or possessions retained by the facility for the resident during the resident's stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of the items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

57.45(4) A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

57.45(5) A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

481—57.46(135C) Family visits. Each resident, if married, shall be ensured privacy for visits by the resident's spouse; if both are residents in the facility, they shall be permitted to share a room, if available. (II)

57.46(1) The facility shall provide for needed privacy in visits between spouses. (II)

57.46(2) Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why such an arrangement would have an adverse effect on the health of the resident. (II)

57.46(3) Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why such an agreement would have an adverse effect on the health of the resident. (II)

481—57.47(135C) Choice of physician. Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

481—57.48(135C) Incompetent residents.

57.48(1) Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

57.48(2) The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

481—57.49(135C) County care facilities. In addition to Chapter 57 licensing rules, county care facilities licensed as residential care facilities must also comply with department of human services rules, 441—Chapter 37. Violations of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).

481—57.50(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal.

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs "a" through "j" of this rule. (I, II, III)

57.50(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a. Health and safety risks for residents;
- b. Compatibility of the proposed business or activity with the facility program;
- c. Noise created by the proposed business or activity;
- d. Odors created by the proposed business or activity;
- e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;
- g. Proposed staffing for the business or activity;
- h. Sharing of services and staff between the proposed business or activity and the facility;
- i. Facility layout and design; and
- j. Parking area utilized by the business or activity.

57.50(2) Approval of the state fire marshal shall be obtained before approval of the department will be considered.

57.50(3) A business or activity conducted in a health care facility or in the same physical structure as a health care facility shall not reduce space, services or staff available to residents below minimums required in these rules and 481—Chapter 60. (I, II, III)

481—57.51(135C) Respite care services. Respite care services means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. A residential care facility which chooses to provide respite care services must meet the following requirements related to respite services and must be licensed as a residential care facility.

57.51(1) A residential care facility which chooses to provide respite care services is not required to obtain a separate license or pay a license fee.

57.51(2) Rule 481—57.36(135C), regarding involuntary discharge or transfer rights, does not apply to residents who are being cared for under a respite care contract.

57.51(3) Pursuant to rule 481—57.14(135C), the facility shall have a contract with each resident in the facility. When the resident is there for respite care services, the contract shall specify the time period during which the resident will be considered to be receiving respite care services. At the end of that period, the contract may be amended to extend that period of time. The contract shall specifically state the resident may be involuntarily discharged while being considered as a respite care resident. The contract shall meet other requirements under 481—57.14(135C), except the requirements under subrule 57.14(7).

57.51(4) Respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

These rules are intended to implement Iowa Code sections 10A.202, 10A.402, 135C.6(1), 135C.14, 135C.23(2), 135C.25, 135C.36, 227.4, 235B.1(6), and 235B.1(11).

- [Filed 8/6/76, Notice 4/19/76—published 8/23/76, effective 9/27/76]
- [Filed without Notice 10/4/76—published 10/20/76, effective 11/24/76]
- [Filed emergency 12/21/76—published 1/12/77, effective 1/12/77]
- [Filed without Notice 2/4/77—published 2/23/77, effective 3/30/77]
- [Filed 8/18/77, Notice 3/9/77—published 9/7/77, effective 10/13/77]
- [Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]
- [Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]
- [Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]
- [Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]
- [Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]
- [Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]
- [Filed emergency 11/22/78—published 12/13/78, effective 1/3/79]
- [Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]
- [Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86¹]
- [Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]
- [Filed emergency 7/1/86—published 7/16/86, effective 7/1/86²]
- [Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]
- [Filed 3/12/87, Notice 1/28/87—published 4/8/87, effective 5/13/87]
- [Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]
- [Filed 2/5/88, Notice 10/7/87—published 2/24/88, effective 3/30/88]^o
- [Filed 4/28/88, Notice 12/16/87—published 5/18/88, effective 6/22/88]
- [Filed 5/26/88, Notice 4/20/88—published 6/15/88, effective 7/20/88]
- [Filed 9/30/88, Notice 8/24/88—published 10/19/88, effective 11/23/88]
- [Filed 12/9/88, Notices 8/24/88, 10/5/88—published 12/28/88, effective 2/1/89]
- [Filed 6/23/89, Notice 5/17/89—published 7/12/89, effective 8/16/89]
- [Filed 7/20/89, Notice 6/14/89—published 8/9/89, effective 9/13/89]
- [Filed 8/16/89, Notices 4/19/89, 7/12/89—published 9/6/89, effective 10/11/89]
- [Filed 3/14/91, Notice 9/19/90—published 4/3/91, effective 5/8/91]
- [Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
- [Filed 1/31/92, Notice 11/13/91—published 2/19/92, effective 7/1/92]
- [Filed 3/12/92, Notice 12/11/91—published 4/1/92, effective 5/6/92]
- [Filed 5/21/93, Notice 11/25/92—published 6/9/93, effective 7/14/93³]
- [Filed 3/11/94, Notice 9/15/93—published 3/30/94, effective 5/4/94]
- [Filed 5/16/95, Notice 3/15/95—published 6/7/95, effective 7/12/95]
- [Filed 7/11/97, Notice 4/23/97—published 7/30/97, effective 9/3/97]
- [Filed emergency 7/25/97—published 8/13/97, effective 7/25/97]
- [Filed emergency 11/14/97—published 12/3/97, effective 11/14/97]
- [Filed 11/14/97, Notice 8/13/97—published 12/3/97, effective 1/7/98]
- [Filed 3/31/98, Notice 12/3/97—published 4/22/98, effective 5/27/98]

[Filed 7/9/98, Notice 4/22/98—published 7/29/98, effective 9/2/98]
[Filed 1/15/04, Notice 10/1/03—published 2/4/04, effective 3/10/04]
[Filed 1/15/04, Notice 12/10/03—published 2/4/04, effective 3/10/04]
[Filed 7/13/05, Notice 6/8/05—published 8/3/05, effective 9/7/05]
[Filed 9/20/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]
[Filed 11/14/07, Notice 10/10/07—published 12/5/07, effective 1/9/08]
[Filed 7/9/08, Notice 1/30/08—published 7/30/08, effective 9/3/08]
[Filed ARC 0663C (Notice ARC 0513C, IAB 12/12/12), IAB 4/3/13, effective 5/8/13]
[Filed ARC 0766C (Notice ARC 0601C, IAB 2/6/13), IAB 5/29/13, effective 7/3/13]
[Filed ARC 0903C (Notice ARC 0776C, IAB 5/29/13), IAB 8/7/13, effective 9/11/13]
[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]
[Filed ARC 1205C (Notice ARC 1082C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1204C (Notice ARC 1083C, IAB 10/2/13), IAB 12/11/13, effective 1/15/14]
[Filed ARC 1476C (Notice ARC 1413C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

◇ Two or more ARCs

¹ Effective date of 470—57.15(2) “a” and “b” delayed until the expiration of 45 calendar days into the 1987 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 6/4/86.

² See IAB, Inspections and Appeals Department.

³ Effective date of 481—57.12(2) “a,” last paragraph, delayed 70 days by the Administrative Rules Review Committee at its meeting held July 8, 1993.

OBJECTION

At its February 13 meeting the Administrative Rules Review Committee voted the following objection: [Subrules 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b,” 63.21(3)“b,” published IAB 12/13/78]

The committee objects to the amendments to 470* IAC 57.23(2)“b,” 58.26(2)“b,” 59.31(2)“b” and 63.21(3)“b,” which strike the phrase “Twenty-five percent of the staffing may be provided by qualified volunteers. The time shall be spent in working with the organized program activity.”, on the grounds these provisions are unreasonable. It is the understanding of the committee these deletions in effect require facilities to employ a person to coordinate recreation activities. It is the feeling of the committee this would result in higher per bed costs without demonstrably improving the services rendered to the patient. Volunteers have always played a major role in health care institutions, and no evidence has been submitted indicating a decline in that role or in public interest in donating time and energy.

These amendments appear in the 12-13-78 IAB, and have been filed under the emergency provisions of chapter 17A, 1979 Code.

*Chapter 57 transferred to Inspections and Appeals[481], IAC 7/15/87.

CHAPTER 61
WATER QUALITY STANDARDS

[Prior to 7/1/83, DEQ Ch 16]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

WATER QUALITY STANDARDS

567—61.1 Rescinded, effective August 31, 1977.

567—61.2(455B) General considerations.

61.2(1) Policy statement. It shall be the policy of the commission to protect and enhance the quality of all the waters of the state. In the furtherance of this policy it will attempt to prevent and abate the pollution of all waters to the fullest extent possible consistent with statutory and technological limitations. This policy shall apply to all point and nonpoint sources of pollution.

These water quality standards establish selected criteria for certain present and future designated uses of the surface waters of the state. The standards establish the areas where these uses are to be protected and provide minimum criteria for waterways having nondesignated uses as well. Many surface waters are designated for more than one use. In these cases the more stringent criteria shall govern for each parameter.

Certain of the criteria are in narrative form without numeric limitations. In applying such narrative standards, decisions will be based on the U.S. Environmental Protection Agency's methodology described in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," (1985) and on the rationale contained in "Quality Criteria for Water," published by the U.S. Environmental Protection Agency (1977), as updated by supplemental Section 304 (of the Act) Ambient Water Quality Criteria documents. To provide human health criteria for parameters not having numerical values listed in 61.3(3) Table 1, the required criteria will be based on the rationale contained in these EPA criteria documents. The human health criterion considered will be the value associated with the consumption of fish flesh and a risk factor of 10^{-5} for carcinogenic parameters. For noncarcinogenic parameters, the recommended EPA criterion will be selected. For Class C water, the EPA criteria for fish and water consumption will be selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above.

All methods of sample collection, preservation, and analysis used in applying any of the rules in these standards shall be in accord with those prescribed in 567—Chapter 63.

61.2(2) Antidegradation policy. It is the policy of the state of Iowa that:

a. Tier 1 protection. Existing surface water uses and the level of water quality necessary to protect the existing uses will be maintained and protected.

b. Tier 2 protection. Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the department shall ensure water quality adequate to protect existing uses fully. Further, the department shall ensure the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control before allowing any lowering of water quality.

c. Tier 2½ protection—outstanding Iowa waters. Where high quality waters constitute an outstanding state resource, such as waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

d. Tier 3 protection—outstanding national resource waters. Where high quality waters constitute an outstanding national resource, such as waters of national and state parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected. Any proposed activity that would result in a permanent new or expanded source of pollutants in an outstanding national resource water is prohibited.

e. The four levels of protection provided by the antidegradation policy in paragraphs “a” through “d” of this subrule shall be implemented according to procedures hereby incorporated by reference and known as the “Iowa Antidegradation Implementation Procedure,” effective February 17, 2010. This document may be obtained on the department’s Web site at <http://www.iowadnr.com/water/standards/index.html>.

f. All unapproved facility plans for new or expanded construction permits, except for construction permits issued for nondischarging facilities, shall undergo an antidegradation review if degradation is likely in the receiving water or downstream waters following February 17, 2010.

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:

(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.

(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.

(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into waters of the United States.

(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.

(5) For single-family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.

(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(8) For nationwide permits when the Corps’ district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).

Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would

normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.

61.2(3) *Minimum treatment required.* All wastes discharged to the waters of the state must be of such quality that the discharge will not cause the narrative or numeric criteria limitations to be exceeded. Where the receiving waters provide sufficient assimilative capacity that the water quality standards are not the limiting factor, all point source wastes shall receive treatment in compliance with minimum effluent standards as adopted in rules by the department.

There are numerous parameters of water quality associated with nonpoint source runoff which are of significance to the designated water uses specified in the general and specific designations in 567—61.3(455B), but which are not delineated. It shall be the intent of these standards that the limits on such nonpoint source related parameters when adopted shall be those that can be achieved by best management practices as defined in the course of the continuing planning process from time to time. Existing water quality and nonpoint source runoff control technology will be evaluated in the course of the Iowa continuing planning process, and best management practices and limitations on specific water quality parameters will be reviewed and revised from time to time to ensure that the designated water uses and water quality enhancement goals are met.

61.2(4) *Regulatory mixing zones.* Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic and human health criteria of subrule 61.3(3), Tables 1 and 3, for that particular water body or segment. A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met. For waters designated under subrule 61.3(5), any parameter not included in Tables 1, 2 and 3 of subrule 61.3(3), the chronic and human health criteria, and the acute criterion calculated following subrule 61.2(1), will be met at the mixing zone and zone of initial dilution boundaries, respectively.

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone. Additional details are noted in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009, for considering unusual site-specific features such as side channels and sand bars which may influence a mixing zone. Applications for operation permits under 567—subrule 64.3(1) may be required to provide specific information related to the mixing zone characteristics below their outfall so that mixing zone boundaries can be determined.

b. For parameters included in Table 1 only (which does not include ammonia nitrogen), the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

(1) The stream flow in the mixing zone may not exceed the most restrictive of the following:

1. Twenty-five percent of the design low stream flows noted in subrule 61.2(5) for interior streams and rivers, and the Big Sioux and Des Moines Rivers.

2. Ten percent of the design low stream flows noted in subrule 61.2(5) for the Mississippi and Missouri Rivers.

3. The stream flow contained in the mixing zone at the most restrictive of the applicable mixing zone length criteria, noted below.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

1. The distance to the juncture of two perennial streams.
2. The distance to a public water supply intake.
3. The distance to the upstream limits of an established recreational area, such as public beaches, and state, county and local parks.
4. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.
5. The distance to another mixing zone.
6. Not to exceed a distance of 2000 feet.
7. The location where the mixing zone contained the percentages of stream flow noted in 61.2(4) "b"(1).

(3) The width of the mixing zone is calculated as the portion of the stream containing the allowed mixing zone stream flow. The mixing zone width will be measured perpendicular to the basic direction of stream flow at the downstream boundary of the mixing zone. This measurement will only consider the distance of continuous water surface.

(4) The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

c. The stream flow used in determining wasteload allocations to ensure compliance with the maximum contaminant level (MCL), chronic and human health criteria of Table 1 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the following percentages of the design low stream flow as measured at the point of discharge:

- (1) Twenty-five percent for interior streams and rivers, and the Big Sioux and Des Moines Rivers.
- (2) Ten percent for the Mississippi and Missouri Rivers.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 1 may not exceed 10 percent of the calculated flow associated with the mixing zone.

d. For toxic parameters noted in Table 1, the following exceptions apply to the mixing zone requirements:

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold water.

(3) The use of a diffuser device to promote rapid mixing of an effluent in a receiving stream will be considered on a case-by-case basis with its usage as a means for dischargers to comply with an acute numerical criterion.

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi or Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

e. For ammonia criteria noted in Table 3, the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

(1) The stream flow in the mixing zone may not exceed the most restrictive of the following:

1. One hundred percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is less than or equal to 2:1.

2. Fifty percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is greater than 2:1, but less than or equal to 5:1.

3. Twenty-five percent of the design low stream flows noted in subrule 61.2(5) for locations where the dilution ratio is greater than 5:1.

4. The stream flow contained in the mixing zone at the most restrictive of the applicable mixing zone length criteria, noted below.

(2) The length of the mixing zone below the point of discharge shall be set by the most restrictive of the following:

1. The distance to the juncture of two perennial streams.
2. The distance to a public water supply intake.
3. The distance to the upstream limits of an established recreational area, such as public beaches, and state, county, and local parks.
4. The distance to the middle of a crossover point in a stream where the main current flows from one bank across to the opposite bank.
5. The distance to another mixing zone.
6. Not to exceed a distance of 2000 feet.
7. The location where the mixing zone contained the percentages of stream flow noted in 61.2(4) "e"(1).

(3) The width of the mixing zone is calculated as the portion of the stream containing the allowed mixing zone stream flow. The mixing zone width will be measured perpendicular to the basic direction of stream flow at the downstream boundary of the mixing zone. This measurement will only consider the distance of continuous water surface.

(4) The width and length of the zone of initial dilution may not exceed 10 percent of the width and length of the mixing zone.

f. For ammonia criteria noted in Table 3, the stream flow used in determining wasteload allocations to ensure compliance with the chronic criteria of Table 3 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the percentages of the design low stream flow noted in 61.2(4) "e"(1) as measured at the point of discharge.

The pH and temperature values at the boundary of the mixing zone used to select the chronic ammonia criteria of Table 3 will be from one of the following sources. The source of the pH and temperature data will follow the sequence listed below, if applicable data exists from the source.

(1) Specific pH and temperature data provided by the applicant gathered at their mixing zone boundary. Procedures for obtaining this data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

(2) Regional background pH and temperature data provided by the applicant gathered along the receiving stream and representative of the background conditions at the outfall. Procedures for obtaining this data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

(3) The statewide average background values presented in Table IV-2 of the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 3 may not exceed 5 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of less than or equal to 2:1, and not exceed 10 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of greater than 2:1. The pH and temperature values at the boundary of the zone of initial dilution used to select the acute ammonia criteria of Table 3 will be from one of the following sources and follow the sequence listed below, if applicable data exists from the source.

1. Specific effluent pH and temperature data if the dilution ratio is less than or equal to 2:1.
2. If the dilution ratio is greater than 2:1, the logarithmic average pH of the effluent and the regional or statewide pH provided in 61.2(4) "f" will be used. In addition, the flow proportioned average temperature of the effluent and the regional or statewide temperature provided in 61.2(4) "f" will be used. The procedures for calculating these data are noted in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

g. For ammonia criteria noted in Table 3, the following exceptions apply to the mixing zone requirements.

(1) No mixing zone or zone of initial dilution will be allowed for waters designated as lakes or wetlands.

(2) No zone of initial dilution will be allowed in waters designated as cold water.

(3) The use of a diffuser device to promote rapid mixing of an effluent in a receiving stream will be considered on a case-by-case basis with its usage as a means for dischargers to comply with an acute numerical criterion.

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi and Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009.

h. Temperature changes within mixing zones established for heat dissipation will not exceed the temperature criteria in 61.3(3) "b"(5).

i. The appropriateness of establishing a mixing zone where a substance discharged is bioaccumulative, persistent, carcinogenic, mutagenic, or teratogenic will be carefully evaluated. In such cases, effects such as potential groundwater contamination, sediment deposition, fish attraction, bioaccumulation in aquatic life, bioconcentration in the food chain, and known or predicted safe exposure levels shall be considered.

61.2(5) Implementation strategy. Numerical criteria specified in these water quality standards shall be met when the flow of the receiving stream equals or exceeds the design low flows noted below.

Type of Numerical Criteria	Design Low Flow Regime
Aquatic Life Protection (TOXICS)	
Acute	1Q ₁₀
Chronic	7Q ₁₀
Aquatic Life Protection (AMMONIA - N)	
Acute	1Q ₁₀
Chronic	30Q ₁₀
Human Health Protection & MCL	
Noncarcinogenic	30Q ₅
Carcinogenic	Harmonic mean

a. The allowable 3°C temperature increase criterion for warm water interior streams, 61.3(3) "b"(5) "1," is based in part on the need to protect fish from cold shock due to rapid cessation of heat source and resultant return of the receiving stream temperature to natural background temperature. On low flow streams, in winter, during certain conditions of relatively cold background stream temperature and relatively warm ambient air and groundwater temperature, certain wastewater treatment plants with relatively constant flow and constant temperature discharges will cause temperature increases in the receiving stream greater than allowed in 61.3(3) "b"(5) "1."

b. During the period November 1 to March 31, for the purpose of applying the 3°C temperature increase criterion, the minimum protected receiving stream flow rate below such discharges may be increased to not more than three times the rate of flow of the discharge, where there is reasonable assurance that the discharge is of such constant temperature and flow rate and continuous duration as to not constitute a threat of heat cessation and not cause the receiving stream temperature to vary more than 3°C per day.

c. Site-specific water quality criteria may be allowed in lieu of the specific numerical criteria listed in Tables 1 and 3 of this chapter if adequate documentation is provided to show that the proposed criteria will protect all existing or potential uses of the surface water. Site-specific water quality criteria may be appropriate where:

- (1) The types of organisms differ significantly from those used in setting the statewide criteria; or
- (2) The chemical characteristics of the surface water such as pH, temperature, and hardness differ significantly from the characteristics used in setting the statewide criteria.

Development of site-specific criteria shall include an evaluation of the chemical and biological characteristics of the water resource and an evaluation of the impact of the discharge. All evaluations for site-specific criteria modification must be coordinated through the department, and be conducted using scientifically accepted procedures approved by the department. Any site-specific criterion developed under the provisions of this subrule is subject to the review and approval of the U.S. Environmental Protection Agency. All criteria approved under the provisions of this subrule will be published periodically by the department. Guidelines for establishing site-specific water quality criteria can be found in “Water Quality Standards Handbook,” published by the U.S. Environmental Protection Agency, December 1983.

d. A wastewater treatment facility may submit to the department technically valid instream data which provides additional information to be used in the calculations of their wasteload allocations and effluent limitations. This information would be in association with the low flow characteristics, width, length and time of travel associated with the mixing zone or decay rates of various effluent parameters. The wasteload allocation will be calculated considering the applicable data and consistent with the provisions and restrictions in the rules.

e. The department may perform use assessment and related use attainability analyses on water bodies where uses may not be known or adequately documented. The preparation of use attainability analysis documents will consider available U.S. Environmental Protection Agency guidance or other applicable guidance. Credible data and documentation will be used to assist in the preparation of use assessments and use attainability analysis reports.

[ARC 8214B, IAB 10/7/09, effective 11/11/09; ARC 8466B, IAB 1/13/10, effective 2/17/10; ARC 9330B, IAB 1/12/11, effective 2/16/11 (See Delay note at the end of chapter); ARC 0121C, IAB 5/16/12, effective 6/20/12; ARC 1495C, IAB 6/11/14, effective 7/16/14]

567—61.3(455B) Surface water quality criteria.

61.3(1) *Surface water classification.* All waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments.

a. General use segments. These are intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation and whose channels are normally above the water table. These waters do not support a viable aquatic community during low flow and do not maintain pooled conditions during periods of no flow.

The general use segments are to be protected for livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, agricultural, domestic and other incidental water withdrawal uses.

b. Designated use segments. These are water bodies which maintain flow throughout the year or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community.

All perennial rivers and streams as identified by the U.S. Geological Survey 1:100,000 DLG Hydrography Data Map (published July 1993) or intermittent streams with perennial pools in Iowa not specifically listed in the surface water classification of 61.3(5) are designated as Class B(WW-1) waters.

All perennial rivers and streams as identified by the U.S. Geological Survey 1:100,000 DLG Hydrography Data Map (published July 1993) or intermittent streams with perennial pools in Iowa are designated as Class A1 waters.

Designated uses of segments may change based on a use attainability analysis consistent with 61.2(5) “e.” Designated use changes will be specifically listed in the surface water classification of 61.3(5).

Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Designated use segments include:

- (1) Primary contact recreational use (Class “A1”). Waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of ingesting water

in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

(2) Secondary contact recreational use (Class “A2”). Waters in which recreational or other uses may result in contact with the water that is either incidental or accidental. During the recreational use, the probability of ingesting appreciable quantities of water is minimal. Class A2 uses include fishing, commercial and recreational boating, any limited contact incidental to shoreline activities and activities in which users do not swim or float in the water body while on a boating activity.

(3) Children’s recreational use (Class “A3”). Waters in which recreational uses by children are common. Class A3 waters are water bodies having definite banks and bed with visible evidence of the flow or occurrence of water. This type of use would primarily occur in urban or residential areas.

(4) Cold water aquatic life—Type 1 (Class “B(CW1)”). Waters in which the temperature and flow are suitable for the maintenance of a variety of cold water species, including reproducing and nonreproducing populations of trout (*Salmonidae* family) and associated aquatic communities.

(5) Cold water aquatic life—Type 2 (Class “B(CW2)”). Waters that include small, channeled streams, headwaters, and spring runs that possess natural cold water attributes of temperature and flow. These waters usually do not support consistent populations of trout (*Salmonidae* family), but may support associated vertebrate and invertebrate organisms.

(6) Warm water—Type 1 (Class “B(WW-1)”). Waters in which temperature, flow and other habitat characteristics are suitable to maintain warm water game fish populations along with a resident aquatic community that includes a variety of native nongame fish and invertebrate species. These waters generally include border rivers, large interior rivers, and the lower segments of medium-size tributary streams.

(7) Warm water—Type 2 (Class “B(WW-2)”). Waters in which flow or other physical characteristics are capable of supporting a resident aquatic community that includes a variety of native nongame fish and invertebrate species. The flow and other physical characteristics limit the maintenance of warm water game fish populations. These waters generally consist of small perennially flowing streams.

(8) Warm water—Type 3 (Class “B(WW-3)”). Waters in which flow persists during periods when antecedent soil moisture and groundwater discharge levels are adequate; however, aquatic habitat typically consists of nonflowing pools during dry periods of the year. These waters generally include small streams of marginally perennial aquatic habitat status. Such waters support a limited variety of native fish and invertebrate species that are adapted to survive in relatively harsh aquatic conditions.

(9) Lakes and wetlands (Class “B(LW)”). These are artificial and natural impoundments with hydraulic retention times and other physical and chemical characteristics suitable to maintain a balanced community normally associated with lake-like conditions.

(10) Human health (Class “HH”). Waters in which fish are routinely harvested for human consumption or waters both designated as a drinking water supply and in which fish are routinely harvested for human consumption.

(11) Drinking water supply (Class “C”). Waters which are used as a raw water source of potable water supply.

61.3(2) General water quality criteria. The following criteria are applicable to all surface waters including general use and designated use waters, at all places and at all times for the uses described in 61.3(1)“a.”

a. Such waters shall be free from substances attributable to point source wastewater discharges that will settle to form sludge deposits.

b. Such waters shall be free from floating debris, oil, grease, scum and other floating materials attributable to wastewater discharges or agricultural practices in amounts sufficient to create a nuisance.

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectionable color, odor or other aesthetically objectionable conditions.

d. Such waters shall be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic to human, animal, or plant life.

e. Such waters shall be free from substances, attributable to wastewater discharges or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

f. The turbidity of the receiving water shall not be increased by more than 25 Nephelometric turbidity units by any point source discharge.

g. Cations and anions guideline values to protect livestock watering may be found in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on November 11, 2009.

h. The Escherichia coli (E. coli) content of water which enters a sinkhole or losing stream segment, regardless of the water body’s designated use, shall not exceed a Geometric Mean value of 126 organisms/100 ml or a sample maximum value of 235 organisms/100 ml. No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

61.3(3) Specific water quality criteria.

a. *Class “A” waters.* Waters which are designated as Class “A1,” “A2,” or “A3” in subrule 61.3(5) are to be protected for primary contact, secondary contact, and children’s recreational uses. The general criteria of subrule 61.3(2) and the following specific criteria apply to all Class “A” waters.

(1) The Escherichia coli (E. coli) content shall not exceed the levels noted in the Bacteria Criteria Table when the Class “A1,” “A2,” or “A3” uses can reasonably be expected to occur.

Bacteria Criteria Table (organisms/100 ml of water)

Use or Category	Geometric Mean	Sample Maximum
Class A1		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A2 (Only)		
3/15 – 11/15	630	2880
11/16 – 3/14	Does not apply	Does not apply
[Class A2 and B(CW)] or OIW or ONRW		
Year-Round	630	2880
Class A3		
3/15 – 11/15	126	235
11/16 – 3/14	Does not apply	Does not apply
Class A1 - Primary Contact Recreational Use Class A2 - Secondary Contact Recreational Use Class A3 - Children’s Recreational Use		

When a water body is designated for more than one of the recreational uses, the most stringent criteria for the appropriate season shall apply.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

b. *Class “B” waters.* All waters which are designated as Class B(CW1), B(CW2), B(WW-1), B(WW-2), B(WW-3) or B(LW) are to be protected for wildlife, fish, aquatic, and semiaquatic life. The following criteria shall apply to all Class “B” waters designated in subrule 61.3(5).

(1) Dissolved oxygen. Dissolved oxygen shall not be less than the values shown in Table 2 of this subrule.

(2) pH. The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

(3) General chemical constituents. The specific numerical criteria shown in Tables 1, 2, and 3 of this subrule apply to all waters designated in subrule 61.3(5). The sole determinant of compliance

with these criteria will be established by the department on a case-by-case basis. Effluent monitoring or instream monitoring, or both, will be the required approach to determine compliance.

1. The acute criteria represent the level of protection necessary to prevent acute toxicity to aquatic life. Instream concentrations above the acute criteria will be allowed only within the boundaries of the zone of initial dilution.

2. The chronic criteria represent the level of protection necessary to prevent chronic toxicity to aquatic life. Excursions above the chronic criteria will be allowed only inside of mixing zones or only for short-term periods outside of mixing zones; however, these excursions cannot exceed the acute criteria shown in Tables 1 and 3. The chronic criteria will be met as short-term average conditions at all times the flow equals or exceeds either the design flows noted in subrule 61.2(5) or any site-specific low flow established under the provisions of subrule 61.2(5).

3. Rescinded IAB 2/15/06, effective 3/22/06.

(4) Rescinded IAB 2/15/06, effective 3/22/06.

(5) Temperature.

1. No heat shall be added to interior streams or the Big Sioux River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 32°C.

2. No heat shall be added to streams designated as cold water fisheries that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the stream temperature above 20°C.

3. No heat shall be added to lakes and reservoirs that would cause an increase of more than 2°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added in excess of that amount that would raise the temperature of the lake or reservoirs above 32°C.

4. No heat shall be added to the Missouri River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In no case shall heat be added that would raise the stream temperature above 32°C.

5. No heat shall be added to the Mississippi River that would cause an increase of more than 3°C. The rate of temperature change shall not exceed 1°C per hour. In addition, the water temperature at representative locations in the Mississippi River shall not exceed the maximum limits in the table below during more than 1 percent of the hours in the 12-month period ending with any month. Moreover, at no time shall the water temperature at such locations exceed the maximum limits in the table below by more than 2°C.

Zone II—Iowa-Minnesota state line to the northern Illinois border (Mile Point 1534.6).

Zone III—Northern Illinois border (Mile Point 1534.6) to Iowa-Missouri state line.

Month	Zone II	Zone III
January	4°C	7°C
February	4°C	7°C
March	12°C	14°C
April	18°C	20°C
May	24°C	26°C
June	29°C	29°C
July	29°C	30°C
August	29°C	30°C
September	28°C	29°C
October	23°C	24°C
November	14°C	18°C
December	9°C	11°C

(6) Early life stage for each use designation. The following seasons will be used in applying the early life stage present chronic criteria noted in Table 3b, "Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Present."

1. For all Class B(CW1) waters, the early life stage will be year-round.
2. For all Class B(CW2) waters, the early life stage will begin on April 1 and last through September 30.
3. For all Class B(WW-1) waters, the early life stage will begin in March and last through September, except as follows:
 - For the following, the early life stage will begin in February and last through September:
 - The entire length of the Mississippi and Missouri Rivers,
 - The lower reach of the Des Moines River south of the Ottumwa dam, and
 - The lower reach of the Iowa River below the Cedar River.
 - For the following, the early life stage will begin in April and last through September:
 - All Class B(WW-1) waters in the Southern Iowa River Basin,
 - All of the Class B(WW-1) reach of the Skunk River, the North Skunk River and the South Skunk River south of Indian Creek (Jasper County), and the Class B(WW-1) tributaries to these reaches, and the entire Class B(WW-1) reach of the English River.
4. For all Class B(WW-2) and Class B(WW-3) waters, the early life stage will begin in April and last through September.
5. For all Class B(LW) lake and wetland waters, the early life stage will begin in March and last through September except for the Class B(LW) waters in the southern two tiers of Iowa counties which will have the early life stage of April through September.

c. *Class "C" waters.* Waters which are designated as Class "C" are to be protected as a raw water source of potable water supply. The following criteria shall apply to all Class "C" waters designated in subrule 61.3(5).

- (1) Radioactive substances.
 1. The combined radium-226 and radium-228 shall not exceed 5 picocuries per liter at the point of withdrawal.
 2. Gross alpha particle activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocuries per liter at the point of withdrawal.
 3. The average annual concentration at the point of withdrawal of beta particle and photon radioactivity from man-made radionuclides other than tritium and strontium-90 shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.
 4. The average annual concentration of tritium shall not exceed 20,000 picocuries per liter at the point of withdrawal; the average annual concentration of strontium-90 shall not exceed 8 picocuries per liter at the point of withdrawal.
- (2) All substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in the surface water.
- (3) The pH shall not be less than 6.5 nor greater than 9.0.

d. *Class "HH" waters.* Waters which are designated as Class HH shall contain no substances in concentrations which will make fish or shellfish inedible due to undesirable tastes or cause a hazard to humans after consumption.

(1) The human health criteria represent the level of protection necessary, in the case of noncarcinogens, to prevent adverse health effects in humans and, in the case of carcinogens, to prevent a level of incremental cancer risk not exceeding 1 in 100,000. Instream concentrations in excess of the human health criteria will be allowed only within the boundaries of the mixing zone.

(2) Reserved.

TABLE 1. Criteria for Chemical Constituents

(all values as micrograms per liter as total recoverable unless noted otherwise)

Human health criteria for carcinogenic parameters noted below were based on the prevention of an incremental cancer risk of 1 in 100,000. For parameters not having a noted human health criterion, the U.S. Environmental Protection Agency has not developed final national human health guideline values.

For noncarcinogenic parameters, the recommended EPA criterion was selected. For Class C waters, the EPA criteria for fish and water consumption were selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above. For Class C waters for which no EPA human health criteria were available, the EPA MCL value was selected.

Parameter		Use Designations							C	HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)			
Alachlor	MCL	—	—	—	—	—	—	—	2	—
Aldrin	Acute	—	—	3	3	3	—	—	—	—
	Human Health — Fish	—	—	—	—	—	—	—	—	.00050 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	—	.00049 ^(f)
Aluminum	Chronic	87	—	87	87	87	748	—	—	—
	Acute	1106	—	750	750	750	983	—	—	—
Antimony	Human Health — Fish	—	—	—	—	—	—	—	—	640 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	—	5.6 ^(f)
Arsenic (III)	Chronic	200	—	150	150	150	200	—	—	—
	Acute	360	—	340	340	340	360	—	—	—
	Human Health — Fish	—	—	—	—	—	—	—	—	50 ^{(e)(g)}
	Human Health — F & W	—	—	—	—	—	—	—	—	.18 ^{(f)(g)}
Asbestos	Human Health — F & W	—	—	—	—	—	—	—	—	7 ^{(a)(f)}
Atrazine	MCL	—	—	—	—	—	—	—	3	—
Barium	Human Health + — F & W	—	—	—	—	—	—	—	—	1000 ^(f)
Benzene	Human Health — F & W	—	—	—	—	—	—	—	—	22 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	—	510 ^(e)
Benzo(a)Pyrene	Human Health — F & W	—	—	—	—	—	—	—	—	.038 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	—	.18 ^(e)
Beryllium	MCL	—	—	—	—	—	—	—	4	—
Bromoform	Human Health — F & W	—	—	—	—	—	—	—	—	43 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	—	1400 ^(e)
Cadmium	Chronic	1	—	.45 ^(h)	.45 ^(h)	.45 ^(h)	1	—	—	—
	Acute	4	—	4.32 ^(h)	4.32 ^(h)	4.32 ^(h)	4	—	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	—	168 ^(e)
	MCL	—	—	—	—	—	—	—	5	—
Carbofuran	MCL	—	—	—	—	—	—	—	40	—
Carbon Tetrachloride	Human Health — F & W	—	—	—	—	—	—	—	—	2.3 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	—	16 ^(e)

Parameter		Use Designations							HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	
para-Dichlorobenzene	Human Health + — F & W	—	—	—	—	—	—	—	63 ^(f)
	Human Health + — Fish	—	—	—	—	—	—	—	190 ^(e)
3,3-Dichlorobenzidine	Human Health — Fish	—	—	—	—	—	—	—	.28 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.21 ^(f)
Dichlorobromomethane	Human Health — F & W	—	—	—	—	—	—	—	5.5 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	170 ^(e)
1,2-Dichloroethane	Human Health — F & W	—	—	—	—	—	—	—	3.8 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	370 ^(e)
1,1-Dichloroethylene	Human Health — F & W	—	—	—	—	—	—	—	330 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	7.1* ^(e)
cis-1,2-Dichloroethylene	MCL	—	—	—	—	—	—	70	—
1,2-trans-Dichloroethylene	Human Health + — F & W	—	—	—	—	—	—	—	10* ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	140 ^(e)
Dichloromethane	MCL	—	—	—	—	—	—	5	—
1,2-Dichloropropane	Human Health — F & W	—	—	—	—	—	—	—	5.0 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	150 ^(e)
Dieldrin	Chronic	.056	—	.056	.056	.056	.056	—	—
	Acute	.24	—	.24	.24	.24	.24	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00054 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.00052 ^(f)
Dinoseb	MCL	—	—	—	—	—	—	7	—
2,3,7,8-TCDD (Dioxin)	Human Health — F & W	—	—	—	—	—	—	—	5.0-8 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	5.1-8 ^(e)
Diquat	MCL	—	—	—	—	—	—	20	—
2,4-D	Human Health + — F & W	—	—	—	—	—	—	—	100 ^(f)
Endosulfan ^(b)	Chronic	.056	—	.056	.056	.056	.15	—	—
	Acute	.11	—	.22	.22	.22	.3	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	89 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	62 ^(f)
Endothall	MCL	—	—	—	—	—	—	100	—
Endrin	Chronic	.05	—	.036	.036	.036	.036	—	—
	Acute	.12	—	.086	.086	.086	.086	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.06 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.059 ^(f)

Parameter		Use Designations							HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	
Ethylbenzene	Human Health + — F & W	—	—	—	—	—	—	—	530 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	2100 ^(e)
Ethylene dibromide	MCL	—	—	—	—	—	—	.05	—
Di(2-ethylhexyl)adipate	MCL	—	—	—	—	—	—	400	—
bis(2-ethylhexyl)phthalate	Human Health — F & W	—	—	—	—	—	—	—	12 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	22 ^(e)
Fluoride	MCL	—	—	—	—	—	—	4000	—
Glyphosate	MCL	—	—	—	—	—	—	700	—
Heptachlor	Chronic	.0038	—	.0038	.0038	.0038	.0038	—	—
	Acute	.38	—	.52	.52	.52	.38	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.00079 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.00079 ^(f)
Heptachlor epoxide	Chronic	.0038	—	.0038	.0038	.0038	.0038	—	—
	Acute	.52	—	.52	.52	.52	.52	—	—
	Human Health — F & W	—	—	—	—	—	—	—	.00039 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	.00039 ^(e)
Hexachlorobenzene	Human Health — F & W	—	—	—	—	—	—	—	.0028 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	.0029 ^(e)
Hexachlorocyclopentadiene	Human Health — F & W	—	—	—	—	—	—	—	40 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	1100 ^(e)
Lead	Chronic	3	—	7.7 ⁽ⁱ⁾	7.7 ⁽ⁱ⁾	7.7 ⁽ⁱ⁾	3	—	—
	Acute	80	—	197 ⁽ⁱ⁾	197 ⁽ⁱ⁾	197 ⁽ⁱ⁾	80	—	—
	MCL	—	—	—	—	—	—	50	—
gamma-BHC (Lindane)	Chronic	N/A	—	N/A	N/A	N/A	N/A	—	—
	Acute	.95	—	.95	.95	.95	.95	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	1.8 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.98 ^(f)
Mercury (II)	Chronic	3.5	—	.9	.9	.9	.91	—	—
	Acute	6.5	—	1.64	1.64	1.64	1.7	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	.15 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	.05 ^(f)
Methoxychlor	Human Health + — F & W	—	—	—	—	—	—	—	100 ^(f)
Nickel	Chronic	350	—	93 ^(k)	93 ^(k)	93 ^(k)	150	—	—
	Acute	3250	—	843 ^(k)	843 ^(k)	843 ^(k)	1400	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	4600 ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	610 ^(f)

Parameter		Use Designations							HH
		B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)	C	
Tetrachlorethylene	Human Health — F & W	—	—	—	—	—	—	—	6.9 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	33 ^(e)
Thallium	Human Health + — F & W	—	—	—	—	—	—	—	.24 ^(f)
	Human Health + — Fish	—	—	—	—	—	—	—	.47 ^(e)
Toluene	Chronic	50	—	50	150	150	50	—	—
	Acute	2500	—	2500	7500	7500	2500	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	15* ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	1300 ^(f)
Total Residual Chlorine (TRC)	Chronic	10	—	11	11	11	10	—	—
	Acute	35	—	19	19	19	20	—	—
Toxaphene	Chronic	.037	—	.002	.002	.002	.037	—	—
	Acute	.73	—	.73	.73	.73	.73	—	—
	Human Health — Fish	—	—	—	—	—	—	—	.0028 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	.0028 ^(f)
1,2,4-Trichlorobenzene	MCL	—	—	—	—	—	—	70	—
1,1,1-Trichlorethane	MCL	—	—	—	—	—	—	200	—
	Human Health + — Fish	—	—	—	—	—	—	—	173* ^(e)
1,1,2-Trichloroethane	Human Health — F & W	—	—	—	—	—	—	—	6 ^(f)
Trichloroethylene (TCE)	Chronic	80	—	80	80	80	80	—	—
	Acute	4000	—	4000	4000	4000	4000	—	—
	Human Health — Fish	—	—	—	—	—	—	—	300 ^(e)
	Human Health — F & W	—	—	—	—	—	—	—	25 ^(f)
Trihalomethanes (total) ^(e)	MCL	—	—	—	—	—	—	80	—
Vinyl Chloride	Human Health — F & W	—	—	—	—	—	—	—	.25 ^(f)
	Human Health — Fish	—	—	—	—	—	—	—	24 ^(e)
Xylenes (Total)	MCL	—	—	—	—	—	—	10*	—
Zinc	Chronic	200	—	215 ^(f)	215 ^(f)	215 ^(f)	100	—	—
	Acute	220	—	215 ^(f)	215 ^(f)	215 ^(f)	110	—	—
	Human Health + — Fish	—	—	—	—	—	—	—	26* ^(e)
	Human Health + — F & W	—	—	—	—	—	—	—	7.4* ^(f)

- * units expressed as milligrams/liter
- ** to include the sum of known and suspected carcinogenic PAHs (includes benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene)
- † expressed as nanograms/liter
- + represents the noncarcinogenic human health parameters
- ++ The concentrations of 4,4-DDT or its metabolites; 4,4-DDE and 4,4-DDD, individually shall not exceed the human health criteria.
- (a) units expressed as million fibers/liter (longer than 10 micrometers)
- (b) includes alpha-endosulfan, beta-endosulfan, and endosulfan sulfate in combination or as individually measured
- (c) The sum of the four trihalomethanes (bromoform [tribromomethane], chlorodibromomethane, chloroform [trichloromethane], and dichlorobromomethane) may not exceed the MCL.
- (d) Class B numerical criteria for pentachlorophenol are a function of pH using the equation: Criterion ($\mu\text{g/l}$) = $e^{[1.005(\text{pH}) - x]}$, where $e = 2.71828$ and x varies according to the following table:

	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)
Acute	3.869	—	4.869	4.869	4.869	4.869
Chronic	4.134	—	5.134	5.134	5.134	5.134

- (e) This Class HH criterion would be applicable to any Class B(LW), B(CW1), B(WW-1), B(WW-2), or B(WW-3) water body that is also designated Class HH.
- (f) This Class HH criterion would be applicable to any Class C water body that is also designated Class HH.
- (g) inorganic form only
- (h) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for cadmium are a function of hardness (as CaCO_3 (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[1.0166\text{Ln}(\text{Hardness}) - 3.924]}$	$e^{[1.0166\text{Ln}(\text{Hardness}) - 3.924]}$	$e^{[1.0166\text{Ln}(\text{Hardness}) - 3.924]}$
Chronic	$e^{[0.7409\text{Ln}(\text{Hardness}) - 4.719]}$	$e^{[0.7409\text{Ln}(\text{Hardness}) - 4.719]}$	$e^{[0.7409\text{Ln}(\text{Hardness}) - 4.719]}$

- (i) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for copper are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.9422\text{Ln}(\text{Hardness}) - 1.700]}$	$e^{[0.9422\text{Ln}(\text{Hardness}) - 1.700]}$	$e^{[0.9422\text{Ln}(\text{Hardness}) - 1.700]}$
Chronic	$e^{[0.8545\text{Ln}(\text{Hardness}) - 1.702]}$	$e^{[0.8545\text{Ln}(\text{Hardness}) - 1.702]}$	$e^{[0.8545\text{Ln}(\text{Hardness}) - 1.702]}$

- (j) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for lead are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[1.2731\text{Ln}(\text{Hardness}) - 1.46]}$	$e^{[1.2731\text{Ln}(\text{Hardness}) - 1.46]}$	$e^{[1.2731\text{Ln}(\text{Hardness}) - 1.46]}$
Chronic	$e^{[1.2731\text{Ln}(\text{Hardness}) - 4.705]}$	$e^{[1.2731\text{Ln}(\text{Hardness}) - 4.705]}$	$e^{[1.2731\text{Ln}(\text{Hardness}) - 4.705]}$

- (k) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for nickel are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.846\text{Ln}(\text{Hardness}) + 2.255]}$	$e^{[0.846\text{Ln}(\text{Hardness}) + 2.255]}$	$e^{[0.846\text{Ln}(\text{Hardness}) + 2.255]}$
Chronic	$e^{[0.846\text{Ln}(\text{Hardness}) + 0.0584]}$	$e^{[0.846\text{Ln}(\text{Hardness}) + 0.0584]}$	$e^{[0.846\text{Ln}(\text{Hardness}) + 0.0584]}$

- (l) Class B(WW-1), B(WW-2), and B(WW-3) criteria listed in main table are based on a hardness of 200 mg/l (as CaCO_3 (mg/l)). Numerical criteria ($\mu\text{g/l}$) for zinc are a function of hardness (CaCO_3 (mg/l)) using the equation for each use according to the following table:

	B(WW-1)	B(WW-2)	B(WW-3)
Acute	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$
Chronic	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$	$e^{[0.8473\text{Ln}(\text{Hardness}) + 0.884]}$

(m) Acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)) and a sulfate concentration of 63 mg/l. Numerical criteria (µg/l) for chloride are a function of hardness (CaCO₃ (mg/l)) and sulfate (mg/l) using the equation for each use according to the following table:

	B(CW1), B(CW2), B(WW-1), B(WW-2), B(WW-3), B(LW)
Acute	$287.8(\text{Hardness})^{0.205797}(\text{Sulfate})^{-0.07452}$
Chronic	$177.87(\text{Hardness})^{0.205797}(\text{Sulfate})^{-0.07452}$

TABLE 2. Criteria for Dissolved Oxygen

(all values expressed in milligrams per liter)

	B(CW1)	B(CW2)	B(WW-1)	B(WW-2)	B(WW-3)	B(LW)
Minimum value for at least 16 hours of every 24-hour period	7.0	7.0	5.0	5.0	5.0	5.0*
Minimum value at any time during every 24-hour period	5.0	5.0	5.0	4.0	4.0	5.0*

**applies only to the upper layer of stratification in lakes*

TABLE 3a. Acute Criterion for Ammonia in Iowa Streams

Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC)		
pH	Class B(WW-1), B(WW-2), B(WW-3) & B(LW)	Class B(CW1) & B(CW2)
6.5	48.8	32.6
6.6	46.8	31.3
6.7	44.6	29.8
6.8	42.0	28.0
6.9	39.1	26.1
7.0	36.1	24.1
7.1	32.8	21.9
7.2	29.5	19.7
7.3	26.2	17.5
7.4	23.0	15.3
7.5	19.9	13.3
7.6	17.0	11.4
7.7	14.4	9.64
7.8	12.1	8.11
7.9	10.1	6.77
8.0	8.40	5.62
8.1	6.95	4.64
8.2	5.72	3.83
8.3	4.71	3.15
8.4	3.88	2.59

Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC)		
pH	Class B(WW-1), B(WW-2), B(WW-3) & B(LW)	Class B(CW1) & B(CW2)
8.5	3.20	2.14
8.6	2.65	1.77
8.7	2.20	1.47
8.8	1.84	1.23
8.9	1.56	1.04
9.0	1.32	0.885

TABLE 3b. Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Present

Chronic Criterion - Early Life Stages Present, mg/l as N (or Criterion Continuous Concentration, CCC)										
pH	Temperature, °C									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.8	2.8	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

TABLE 3c. Chronic Criterion for Ammonia in Iowa Streams - Early Life Stages Absent

Chronic Criterion - Early Life Stages Absent, mg/l as N (or Criterion Continuous Concentration, CCC)										
pH	Temperature, °C									
	0-7	8	9	10	11	12	13	14	15*	16*
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.99
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

*At 15°C and above, the criterion for fish early life stage (ELS) absent is the same as the criterion for fish ELS present.

TABLE 4. Aquatic Life Criteria for Sulfate for Class B Waters

(all values expressed in milligrams per liter)

Hardness mg/l as CaCO ₃	Chloride		
	Cl ⁻ < 5 mg/l	5 ≤ Cl ⁻ < 25	25 ≤ Cl ⁻ ≤ 500
H < 100 mg/l	500	500	500
100 ≤ H ≤ 500	500	$[-57.478 + 5.79$ (hardness) + 54.163 (chloride)] × 0.65	$[1276.7 + 5.508$ (hardness) - 1.457 (chloride)] × 0.65
H > 500	500	2,000	2,000

61.3(4) Class "C" waters. Rescinded IAB 4/18/90, effective 5/23/90.

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

61.3(6) *Cold water use designation assessment protocol.* The department hereby incorporates by reference “Cold Water Use Designation Assessment Protocol,” effective December 15, 2004. This document may be obtained on the department’s Web site at <http://www.iowadnr.com/water/standards/index.html>.

61.3(7) *Warm water stream use assessment and attainability analysis protocol.* The department hereby incorporates by reference “Warm Water Stream Use Assessment and Attainability Analysis Protocol,” effective March 22, 2006. This document may be obtained on the departments Web site at <http://www.iowadnr.com/water/standards/index.html>.

61.3(8) *Recreational use assessment and attainability analysis protocol.* The department hereby incorporates by reference “Recreational Use Assessment and Attainability Analysis Protocol,” effective March 19, 2008. This document may be obtained on the department’s Web site.

This rule is intended to implement Iowa Code chapter 455B, division I, and division III, part 1. [ARC 8039B, IAB 8/12/09, effective 9/16/09; ARC 8214B, IAB 10/7/09, effective 11/11/09; ARC 8226B, IAB 10/7/09, effective 11/11/09; ARC 8466B, IAB 1/13/10, effective 2/17/10; ARC 9223B, IAB 11/17/10, effective 12/22/10]

567—61.4 to 61.9 Reserved.

VOLUNTEER MONITORING DATA REQUIREMENTS

567—61.10(455B) Purpose. The department uses water quality monitoring data for a number of purposes, including determining compliance with effluent limits for operation permits issued under 567—Chapter 64. The department also uses water quality monitoring data to determine the relative health of a water body by comparing monitoring data to the appropriate water quality standards established in 567—Chapter 61, a process known as water body assessments. Water body assessments are performed to prepare the biennial water quality report required under Section 305(b) of the Act and the list of impaired waters under Section 303(d) of the Act.

Iowa Code sections 455B.193 to 455B.195 require that credible data, as defined in Iowa Code section 455B.171, be used for the purpose of preparing Section 303(d) lists and other water quality program functions. Data provided by a volunteer are not considered credible data unless provided by a qualified volunteer. The purpose of this chapter is to establish minimum requirements for data produced by volunteers to meet the credible data and qualified volunteer requirements.

567—61.11(455B) Monitoring plan required. Volunteer water quality monitoring data submitted to the department must have been produced in accordance with a department-approved volunteer water quality monitoring plan before the data may be used for any of the purposes listed in Iowa Code section 455B.194. Approval of a plan will establish qualified volunteer status for the personnel identified in the plan for those monitoring activities covered under the plan.

61.11(1) Submittal of the plan. Prior to initiation of volunteer water quality monitoring activities intended to produce credible data, a water quality monitoring plan must be submitted to the department for review and approval. The plan must be submitted to the Volunteer Monitoring Coordinator, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, a minimum of 90 days before planned initiation of volunteer monitoring activities. A letter transmitting the plan must specifically request formal review and approval of the plan and identify a contact person. Volunteer monitors are encouraged to communicate with the department and to attend volunteer monitoring training sessions prior to formal submittal of a plan.

61.11(2) Content of the plan. A volunteer monitoring plan must contain, at a minimum, the following to be considered an acceptable volunteer monitoring plan:

- a. A statement of the intent of the monitoring effort.
- b. The name(s) of the person or persons that will be involved in data collection or analysis, the specific responsibilities of each person or group of people, and the general qualifications of the volunteers to carry out those responsibilities. For groups, such as educational institutions, it will be acceptable to identify the persons involved by general description (e.g., tenth grade biology class) with the exception of persons in responsible charge.

c. The name(s) of the person or persons that will oversee the monitoring plan, ensure that quality assurance and control objectives are being met, and certify the data. The person or persons in responsible charge must have training commensurate with the level of expertise to ensure that credible data is being generated.

d. The duration of the volunteer monitoring effort. In general, the department will not approve plans of greater than three years' duration unless a longer duration is justified.

e. Location and frequency of sample collection.

f. Methods of data collection and analysis.

g. Record keeping and data reporting procedures.

61.11(3) *Department review of the plan.* The department will review monitoring plans and normally approve or disapprove the plan within 90 days of receipt. The department will work with the contact person identified in the plan to make any necessary changes prior to taking formal action. The department will use guidelines contained in the publications EPA Requirements for Quality Assurance Project Plans (EPA QA/R-5, 2001) and Volunteer Monitor's Guide to Quality Assurance Project Plans (1966, EPA 841-B-96-003) or equivalent updates to determine if the plans provide adequate quality assurance and quality control measures. Approval or disapproval of the plan will be in the form of a letter and approval may include conditions or limitations.

61.11(4) *Changes in monitoring plans.* The department must approve any changes to an approved monitoring plan. Data collected under a modified plan will not be considered credible data until such time as the department has approved the modifications. Modifications to an approved plan should be submitted at the earliest possible time to avoid interruptions in data collection and to ensure continuity of data.

61.11(5) *Appeal of disapproval.* If a monitoring plan submitted for approval is disapproved, the decision may be appealed by filing an appeal with the director within 30 days of disapproval. The form of the notice of appeal and appeal procedures are governed by 567—Chapter 7.

567—61.12(455B) Use of volunteer monitoring data. Data produced under an approved water quality monitoring plan will be considered credible data for the purposes listed in Iowa Code section 455B.194 if the following conditions are met.

61.12(1) *Data submittal.* A qualified volunteer monitor or qualified volunteer monitoring group must specifically request that data produced under an approved volunteer monitoring plan be considered credible data. A letter identifying the specific data must be submitted along with a certification from the volunteer or the person in responsible charge for volunteer groups that the data, to the best of the volunteer's or responsible person's knowledge, was produced in accordance with the approved volunteer monitoring plan. The department shall provide a standard format on the IOWATER Web site for submittal of qualified volunteer data and related information. The department encourages volunteers to enter monitoring data on the IOWATER volunteer monitoring database maintained by the department, but doing so does not constitute submittal to or acceptance of the data by the department for uses requiring credible data. Volunteer data shall be labeled as such in any departmental reports, Web sites, or databases.

61.12(2) *Department review of submitted data.* The department must review and approve the submitted data. The person submitting the data will be informed of the department's decision either to accept or reject the data. The department will attempt to resolve any apparent inconsistencies or questionable values in the submitted data prior to making a final decision.

567—61.13(455B) Department audits of volunteer monitoring activities. The department shall conduct field audits of a statistically valid and representative sample of volunteer data collection and analysis procedures to ensure compliance with an approved plan and may conduct confirmatory monitoring tests. Volunteers shall be informed of any audit results and be provided with an opportunity to address any concerns to the extent possible. The department reserves the right to rescind approval of

an approved plan if it finds substantial problems that cannot be addressed in a timely manner to ensure the quality of the data being produced.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

[Filed March 15, 1966; amended March 20, 1967, October 14, 1969, June 8, 1971,

June 26, 1972, July 12, 1972, February 13, 1974]

[Filed 6/28/76, Notice 5/3/76—published 7/12/76, effective 8/16/76]

[Filed 7/1/77, Notice 2/23/77—published 7/27/77, effective 8/31/77]

[Filed without Notice 7/28/77—published 8/24/77, effective 9/28/77]

[Filed 7/27/78, Notice 5/3/78—published 8/23/78, effective 9/27/78]

[Filed 2/2/79, Notice 11/1/78—published 2/21/79, effective 3/28/79]

[Filed 10/26/79, Notice 6/27/79—published 11/14/79, effective 12/19/79]

[Filed 8/29/80, Notice 6/25/80—published 9/17/80, effective 10/22/80]

[3/25/83, Notice 1/5/83—published 4/13/83, effective 5/18/83]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 12/2/83, Notice 6/22/83—published 12/21/83, effective 1/25/84]

[Filed 10/19/84, Notice 7/18/84—published 11/7/84, effective 12/12/84]

[Filed 7/12/85, Notice 3/13/85—published 7/31/85, effective 9/4/85]

[Filed 8/7/86, Notice 4/9/86—published 8/27/86, effective 10/1/86]

[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]

[Filed 3/30/90, Notice 8/9/89—published 4/18/90, effective 5/23/90]

[Filed 8/31/90, Notice 6/13/90—published 9/19/90, effective 10/24/90]

[Filed 10/26/90, Notice 7/11/90—published 11/14/90, effective 12/19/90]

[Filed 11/26/90, Notice 9/19/90—published 12/12/90, effective 1/16/91]

[Filed 7/19/91, Notice 2/20/91—published 8/7/91, effective 9/11/91]

[Filed 1/31/92, Notice 7/10/91—published 2/19/92, effective 3/25/92]

[Filed 2/28/92, Notice 11/13/91—published 3/18/92, effective 4/22/92]

[Filed 5/22/92, Notice 4/1/92—published 6/10/92, effective 7/15/92]

[Filed 7/31/92, Notice 5/13/92—published 8/19/92, effective 9/23/92]

[Filed 10/23/92, Notice 9/2/92—published 11/11/92, effective 12/16/92]

[Filed 5/21/93, Notice 2/17/93—published 6/9/93, effective 7/14/93]

[Filed 7/2/93, Notice 2/17/93—published 7/21/93, effective 8/25/93]

[Filed 10/22/93, Notice 8/18/93—published 11/10/93, effective 12/15/93]

[Filed 7/29/94, Notice 5/11/94—published 8/17/94, effective 9/21/94]

[Filed 5/19/95, Notice 2/15/95—published 6/7/95, effective 8/9/95]

[Filed 8/25/95, Notice 6/7/95—published 9/13/95, effective 10/18/95]

[Filed 2/23/96, Notice 12/20/95—published 3/13/96, effective 4/17/96]

[Filed 5/31/96, Notice 3/13/96—published 6/19/96, effective 7/24/96]

[Filed 1/24/97, Notice 10/9/96—published 2/12/97, effective 3/19/97]

[Filed 5/26/00, Notice 11/17/99—published 6/14/00, effective 7/19/00]

[Filed 9/29/00, Notice 5/17/00—published 10/18/00, effective 11/24/00]

[Filed 8/31/01, Notice 2/7/01—published 9/19/01, effective 10/24/01]

[Filed 5/24/02, Notice 1/9/02—published 6/12/02, effective 7/17/02]

[Filed 6/18/02, Notice 2/6/02—published 7/10/02, effective 8/14/02]

[Filed 5/22/03, Notice 1/8/03—published 6/11/03, effective 7/16/03]

[Filed 3/18/04, Notice 9/17/03—published 4/14/04, effective 5/19/04]

[Filed 4/23/04, Notice 9/17/03—published 5/12/04, effective 6/16/04]

[Filed 10/22/04, Notice 4/14/04—published 11/10/04, effective 12/15/04]

[Filed 1/27/06, Notice 9/14/05—published 2/15/06, effective 3/22/06]^o

[Filed 4/6/07, Notice 12/6/06—published 4/25/07, effective 5/30/07]

[Filed 10/4/07, Notice 5/23/07—published 10/24/07, effective 11/28/07]

[Filed 1/23/08, Notice 9/26/07—published 2/13/08, effective 3/19/08]

[Filed 4/18/08, Notice 10/24/07—published 5/7/08, effective 6/11/08]

[Filed 9/15/08, Notice 7/30/08—published 10/8/08, effective 11/12/08]
[Filed ARC 8039B (Notice ARC 7624B, IAB 3/11/09), IAB 8/12/09, effective 9/16/09]
[Filed ARC 8226B (Notice ARC 7624B, IAB 3/11/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 8214B (Notice ARC 7853B, IAB 6/17/09), IAB 10/7/09, effective 11/11/09]
[Filed ARC 8466B (Notice ARC 7368B, IAB 11/19/08; Amended Notice ARC 7571B, IAB 2/11/09;
Amended Notice ARC 8038B, IAB 8/12/09), IAB 1/13/10, effective 2/17/10]
[Filed ARC 9223B (Amended Notice ARC 8978B, IAB 7/28/10; Notice ARC 8599B, IAB 3/10/10),
IAB 11/17/10, effective 12/22/10]
[Filed ARC 9330B (Notice ARC 9153B, IAB 10/20/10), IAB 1/12/11, effective 2/16/11]¹
[Editorial change: IAC Supplement 2/23/11]
[Filed ARC 0121C (Notice ARC 9998B, IAB 2/8/12), IAB 5/16/12, effective 6/20/12]
[Filed ARC 1495C (Notice ARC 1370C, IAB 3/19/14), IAB 6/11/14, effective 7/16/14]

⁰ Two or more ARCs

¹ February 16, 2011, effective date of 61.2(2)“g”(8) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 11, 2011.

PUBLIC HEALTH DEPARTMENT[641]

Rules of divisions under this department “umbrella” include Professional Licensure[645], Dental Board[650], Medical Board[653],
Nursing Board[655] and Pharmacy Board[657]

CHAPTER 1

REPORTABLE DISEASES, POISONINGS AND CONDITIONS, AND QUARANTINE AND ISOLATION

- | | |
|--|--|
| 1.1(139A) | Definitions |
| 1.2(139A) | Purpose and authority |
| REPORTABLE COMMUNICABLE AND INFECTIOUS DISEASES | |
| 1.3(139A,141A) | Reportable communicable and infectious diseases |
| 1.4(135,139A) | Reporting of reportable communicable and infectious diseases |
| REPORTABLE POISONINGS AND CONDITIONS—NONCOMMUNICABLE | |
| 1.5(139A,135) | Reportable poisonings and conditions |
| 1.6(135,139A) | Reporting poisonings and conditions |
| INVESTIGATION | |
| 1.7(135,139A) | Investigation of reportable diseases |
| ISOLATION AND QUARANTINE | |
| 1.8(139A) | Isolation and quarantine |
| 1.9(135,139A) | Quarantine and isolation |
| 1.10 and 1.11 | Reserved |
| 1.12(135,137,139A) | Quarantine and isolation—model rule for local boards |
| 1.13(135,139A) | Area quarantine |
| SPECIFIC NONCOMMUNICABLE CONDITIONS | |
| 1.14(139A) | Cancer |
| 1.15(144) | Congenital and inherited disorders |
| 1.16(139A) | Agriculturally related injury |
| CONFIDENTIALITY | |
| 1.17(139A,22) | Confidentiality |

CHAPTER 2

HEPATITIS PROGRAMS

- | | |
|--|---|
| VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING | |
| 2.1(135) | Definitions |
| 2.2(135) | Purpose |
| 2.3(135) | Exposure risks for hepatitis C virus |
| 2.4(135) | Information for public distribution |
| 2.5(135) | Hepatitis vaccination and testing program |
| 2.6 to 2.8 | Reserved |
| HEPATITIS C AWARENESS PROGRAM—VETERANS | |
| 2.9(135) | Definitions |
| 2.10(135) | Purpose |
| 2.11(135) | Awareness materials |
| 2.12(135) | Awareness information |
| 2.13(135) | Resources for hepatitis follow-up and treatment |

CHAPTER 3
EARLY HEARING DETECTION AND INTERVENTION

EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM

- 3.1(135) Definitions
- 3.2(135) Purpose
- 3.3(135) Goal and outcomes
- 3.4(135) Program components
- 3.5(135) Screening the hearing of all newborns
- 3.6(135) Procedures required of birthing hospitals
- 3.7(135) Procedures required of birth centers
- 3.8(135) Procedures to ensure that children born in locations other than a birth center or birthing hospital receive a hearing screening
- 3.9(135) Reporting hearing screening results and information to the department
- 3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department
- 3.11(135) Sharing of information and confidentiality
- 3.12 Reserved
- 3.13(135) Procedure to accommodate parental objection
- 3.14(135) Civil/criminal liability
- 3.15 and 3.16 Reserved

HEARING AIDS AND AUDIOLOGIC SERVICES FUNDING PROGRAM

- 3.17(83GA, HF811) Eligibility criteria
- 3.18(83GA, HF811) Covered services
- 3.19(83GA, HF811) Application procedures
- 3.20(83GA, HF811) Hearing aids and audiologic services funding wait list
- 3.21(83GA, HF811) Reimbursement of providers
- 3.22(83GA, HF811) Appeals

CHAPTER 4
CENTER FOR CONGENITAL AND INHERITED DISORDERS

- 4.1(136A) Program overview
- 4.2(136A) Definitions
- 4.3(136A) Iowa newborn screening program (INSP)
- 4.4(136A) Iowa maternal prenatal screening program (IMPSP)
- 4.5(136A) Regional genetic consultation service (RGCS)
- 4.6(136A) Neuromuscular and other related genetic disease program (NMP)
- 4.7(136A) Iowa registry for congenital and inherited disorders (IRCID)
- 4.8 to 4.10 Reserved

CENTER FOR CONGENITAL AND INHERITED DISORDERS ADVISORY COMMITTEE (CIDAC)

- 4.11(136A) Purpose
- 4.12(136A) Duties of the committee
- 4.13(136A) Membership
- 4.14(136A) Meetings

CHAPTER 5
MATERNAL DEATHS

- 5.1(135) Reporting of maternal deaths
- 5.2(135) Ascertainment of maternal deaths
- 5.3(135) Reviewing of maternal deaths

CHAPTER 6
Reserved

CHAPTER 7

IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY
OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF
HIGHER EDUCATION

7.1(139A)	Definitions
7.2(139A)	Persons included
7.3(139A)	Persons excluded
7.4(139A)	Required immunizations
7.5(139A)	Required education
7.6(139A)	Proof of immunization
7.7(139A)	Provisional enrollment
7.8(139A)	Records and reporting
7.9(139A)	Providing immunization services
7.10(139A)	Compliance
7.11(22)	Statewide registry
7.12(22)	Release of immunization and health screening information

CHAPTER 8

IOWA CARE FOR YOURSELF (IA CFY) PROGRAM

8.1(135)	Definitions
8.2(135)	Components of the Iowa care for yourself (IA CFY) program
8.3(135)	Participant eligibility criteria
8.4(135)	Participant application procedures for IA CFY program services
8.5(135)	Priority for program expenditures
8.6(135)	Right to appeal
8.7(135)	Verification for the breast or cervical cancer treatment (BCCT) option of Medicaid

CHAPTER 9

OUTPATIENT DIABETES EDUCATION PROGRAMS

9.1(135)	Scope
9.2(135)	Definitions
9.3(135)	Powers and duties
9.4(135)	Application procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
9.5(135)	Renewal procedures for American Diabetes Association-recognized and American Association of Diabetes Educators-accredited programs
9.6(135)	Application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.7(135)	Diabetes program management for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.8(135)	Program staff for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.9(135)	Renewal application procedures for programs not recognized by the American Diabetes Association or accredited by the American Association of Diabetes Educators
9.10(135)	Annual report
9.11(135)	Enforcement
9.12(135)	Complaints
9.13(135)	Appeal process
9.14(135)	Formal contest

CHAPTER 10

IOWA GET SCREENED: COLORECTAL CANCER PROGRAM

- 10.1(135) Purpose
- 10.2(135) Definitions
- 10.3(135) Components of the Iowa get screened (IGS): colorectal cancer program
- 10.4(135) Medical advisory board
- 10.5(135) Participant eligibility criteria
- 10.6(135) Participant application procedures for IGS program services
- 10.7(135) Priority for program expenditures
- 10.8(135) Right to appeal
- 10.9(135) Colorectal cancer treatment

CHAPTER 11

HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND
ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

- 11.1(139A,141A) Definitions
- 11.2(141A) HIV testing—obtaining consent—voluntary HIV-related tests for adults who are not pregnant
- 11.3(139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant
- 11.4(141A) HIV testing—obtaining consent—voluntary HIV-related tests for pregnant women
- 11.5(141A) HIV test results—post-test counseling
- 11.6(141A) Reporting of diagnoses and HIV-related tests, events, and conditions to the department
- 11.7(141A) Penalties
- 11.8(141A) Immunity
- 11.9 and 11.10 Reserved

TRAINING PROGRAMS

- 11.11(135) Purpose
- 11.12 to 11.14 Reserved

PARTNER NOTIFICATION SERVICES AND DIRECT NOTIFICATION OF AN IDENTIFIABLE THIRD PARTY

- 11.15(139A,141A) Purpose
- 11.16(139A,141A) Definitions
- 11.17(139A,141A) Partner notification services by the department
- 11.18(141A) Direct notification of an identifiable third party by a physician or the department
- 11.19 and 11.20 Reserved

CARE PROVIDERS EXPOSED TO CONTAGIOUS OR INFECTIOUS DISEASES

- 11.21(139A) Purpose
- 11.22(139A) Definitions
- 11.23(139A,141A) Exposures in non-clinical settings
- 11.24(139A,141A) Exposures in clinical settings
- 11.25(139A) Immunity
- 11.26(139A) Duty to test
- 11.27 to 11.29 Reserved

HIV-RELATED TEST FOR CONVICTED OR ALLEGED SEXUAL-ASSAULT OFFENDERS AND VICTIMS

- 11.30(915) Purpose
- 11.31(915) Definitions
- 11.32(915) HIV-related test—convicted or alleged sexual assault offender
- 11.33(915) Medical examination costs
- 11.34(915) Testing, reporting, and counseling—penalties
- 11.35 to 11.39 Reserved

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

11.40(141A)	Definitions
11.41(141A)	Purpose
11.42(141A)	Ensuring payer of last resort
11.43(141A)	Eligibility requirements
11.44(141A)	Enrollment process
11.45(141A)	Discontinuation of services
11.46(141A)	Distribution requirements
11.47(141A)	ADAP waiting list
11.48(141A)	Appeals
11.49(141A)	Confidentiality

CHAPTER 12

APPROVAL OF CONFIRMATORY LABORATORIES FOR
PRIVATE SECTOR DRUG-FREE WORKPLACE TESTING

12.1(730)	Purpose
12.2(730)	Definitions
12.3(730)	Powers and duties
12.4(730)	Application procedures and requirements
12.5(730)	Requirements of laboratory personnel involved in confirmatory testing for alcohol or other drugs, or their metabolites
12.6(730)	Quality assurance program and procedure manual requirements
12.7(730)	Analytical quality control
12.8(730)	Sample security and confidentiality of test results
12.9(730)	Confirmatory testing
12.10(730)	Documentation of the confirmatory testing process
12.11(730)	Reporting of confirmed positive test results to the medical review officer
12.12(730)	Reporting requirements to department
12.13(730)	Approval, renewal, and inspection fees
12.14(730)	Renewal
12.15(730)	Reciprocity
12.16(730)	Changes during approval periods
12.17(730)	Enforcement
12.18(730)	Denial, suspension, modification or revocation of approval
12.19(730)	Restoration of approval
12.20(730)	Appeals process
12.21(730)	Complaints

CHAPTER 13

Reserved

CHAPTER 14

WATER TREATMENT SYSTEMS

14.1(714)	Purpose
14.2(714)	Applicability
14.3(714)	Definitions
14.4(714)	Performance testing
14.5(714)	Third-party testing agencies
14.6(714)	Registration
14.7(714)	Label and manufacturer's performance data sheet
14.8(714)	Consumer information pamphlet
14.9(714)	Sales of water treatment systems

- 14.10(714) Treatment of records
- 14.11(714) Penalties

CHAPTER 15
SWIMMING POOLS AND SPAS

- 15.1(135I) Applicability
- 15.2(135I) Scope
- 15.3(135I) Definitions and abbreviations

SWIMMING POOLS

- 15.4(135I) Swimming pool operations
- 15.5(135I) Construction and reconstruction

ADMINISTRATION

- 15.6(135I) Enforcement
- 15.7(135I) Variances
- 15.8(135I) Penalties
- 15.9(135I) Registration
- 15.10(135I) Training courses
- 15.11(135I) Swimming pool/spa operator qualifications
- 15.12(135I) Fees
- 15.13(135I) 28E agreements
- 15.14(135I) Application denial or partial denial—appeal
- 15.15 to 15.50 Reserved

SPAS

- 15.51(135I) Spa operations
- 15.52(135I) Construction and reconstruction

CHAPTERS 16 to 19
Reserved

CHAPTER 20
COMMUNITY WATER FLUORIDATION GRANT PROGRAM

- 20.1(135) Purpose
- 20.2(135) Definitions
- 20.3(135) Applications
- 20.4(135) Review and rating of applications
- 20.5(135) Project contracts
- 20.6(135) Implementation procedures
- 20.7(135) Reimbursement
- 20.8(135) Termination
- 20.9(135) Appeals

CHAPTER 21
CENTRAL REGISTRY FOR
BRAIN AND SPINAL CORD INJURIES

- 21.1(135) Purpose
- 21.2(135) Definitions
- 21.3(135) Reportable injuries
- 21.4(135) Who reports and under what circumstances
- 21.5(135) Method and frequency of reporting
- 21.6(135) Confidentiality
- 21.7(135) Quality assurance

CHAPTER 22
PRACTICE OF TATTOOING

22.1(135)	Purpose
22.2(135)	Definitions
22.3(135)	General provisions
22.4(135)	Sanitation and infection control
22.5(135)	Equipment
22.6(135)	Procedures
22.7(135)	Permit issuance and renewal
22.8(135)	Establishment permit requirements
22.9(135)	Tattoo artist permit requirements
22.10(135)	Temporary establishment permit requirements
22.11(135)	Mobile unit permit requirements
22.12(135)	Agreements
22.13(135)	Inspection requirements
22.14(135)	Tattoo inspector qualifications
22.15(135)	Client records
22.16(135)	Enforcement
22.17(135)	Adverse actions and the appeal process

CHAPTER 23
PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE PRACTICE

23.1(105)	Definitions
23.2(105)	Duties of all licensees, specialty licensees, and certificate holders
23.3(105)	Contractor license
23.4(105)	Master license
23.5(105)	Journeyman license
23.6(105)	Apprentice license
23.7(105)	Specialty licenses and certifications
23.8(105)	Inactive license

CHAPTER 24
PRIVATE WELL TESTING, RECONSTRUCTION, AND
PLUGGING—GRANTS TO COUNTIES

24.1(135)	Applicability
24.2(135)	Definitions
24.3(135)	Eligibility
24.4(135)	Goal and objectives
24.5(135)	Eligible grant costs
24.6(135)	Ineligible grant costs
24.7(135)	Performance requirements
24.8(135)	Contents of grant application
24.9(135)	Grant application submission
24.10(135)	Multicounty grant applications
24.11(135)	Grant period
24.12(135)	Record keeping and retention
24.13(135)	Grant amendments
24.14(135)	Termination or forfeiture of grant funds

CHAPTER 25
STATE PLUMBING CODE

25.1(105)	Adoption
25.2(105)	Applicability

- 25.3(105) Fuel gas piping
- 25.4(105) Amendments to Uniform Plumbing Code
- 25.5(105) Backflow prevention with containment

CHAPTER 26

BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

- 26.1(135K) Applicability
- 26.2(135K) Definitions
- 26.3(135K) Registration required
- 26.4(135K) Backflow prevention assembly tester training
- 26.5(135K) Registration
- 26.6(135K) Standards of conduct
- 26.7(135K) Penalty
- 26.8(135K) Denial, suspension or revocation

CHAPTER 27

PLUMBING AND MECHANICAL SYSTEMS BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

- 27.1(17A,105) Definitions
- 27.2(17A,105) Purpose of board
- 27.3(17A,105) Organization of board and proceedings
- 27.4(17A,105) Official communications
- 27.5(17A,105) Office hours
- 27.6(21) Public meetings

CHAPTER 28

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

- 28.1(105) Fees
- 28.2(105) Annual review of fee schedule

CHAPTER 29

PLUMBING AND MECHANICAL SYSTEMS BOARD—APPLICATION, LICENSURE, AND EXAMINATION

- 29.1(105) Definitions
- 29.2(105) Available licenses and general requirements
- 29.3(105) Medical gas piping certification
- 29.4(105) Minimum qualifications for licensure
- 29.5(105) General requirements for application for licensure
- 29.6(105) Examination
- 29.7(105) License renewal
- 29.8(105) License reissue
- 29.9(105) Waiver from examination for military service

CHAPTER 30

CONTINUING EDUCATION FOR PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS

- 30.1(105) Definitions
- 30.2(105) Continuing education requirements
- 30.3(105) Continuing education programs/activities
- 30.4(105) Course instructor(s)
- 30.5(105) Compliance review of continuing education requirements
- 30.6(105) Continuing education exemptions

- 30.7(105) Continuing education extensions
- 30.8(105) Continuing education reporting requirements

CHAPTER 31

PLUMBING AND MECHANICAL SYSTEMS BOARD—WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 31.1(17A,105,272C) Definitions
- 31.2(17A,105,272C) Scope of chapter
- 31.3(17A,105,272C) Applicability of chapter
- 31.4(17A,105,272C) Criteria for waiver or variance
- 31.5(17A,105,272C) Filing of petition
- 31.6(17A,105,272C) Content of petition
- 31.7(17A,105,272C) Additional information
- 31.8(17A,105,272C) Notice
- 31.9(17A,105,272C) Hearing procedures
- 31.10(17A,105,272C) Ruling
- 31.11(17A,105,272C) Public availability
- 31.12(17A,105,272C) Summary reports
- 31.13(17A,105,272C) Cancellation of a waiver
- 31.14(17A,105,272C) Violations
- 31.15(17A,105,272C) Defense
- 31.16(17A,105,272C) Judicial review

CHAPTER 32

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSEE DISCIPLINE

- 32.1(105,272C) Definitions
- 32.2(105,272C) Grounds for discipline
- 32.3(105,272C) Method of discipline
- 32.4(272C) Discretion of board
- 32.5(105) Civil penalties
- 32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts

CHAPTER 33

PLUMBING AND MECHANICAL SYSTEMS BOARD—CONTESTED CASES

- 33.1(17A,105,272C) Scope and applicability
- 33.2(17A,105,272C) Definitions
- 33.3(17A) Time requirements
- 33.4(17A,272C) Probable cause
- 33.5(17A,272C) Informal settlement
- 33.6(17A) Statement of charges
- 33.7(17A) Requests for contested case proceeding
- 33.8(105) Legal representation
- 33.9(17A,105,272C) Presiding officer in a disciplinary contested case
- 33.10(17A) Presiding officer in a nondisciplinary contested case
- 33.11(17A) Disqualification
- 33.12(17A) Consolidation—severance
- 33.13(17A) Pleadings
- 33.14(17A) Service and filing
- 33.15(17A) Discovery
- 33.16(17A,272C) Subpoenas in a contested case
- 33.17(17A) Motions
- 33.18(17A) Withdrawals
- 33.19(17A) Intervention

33.20(17A)	Telephone proceedings
33.21(17A)	Prehearing conferences
33.22(17A)	Continuances
33.23(272C)	Settlement agreements
33.24(17A)	Hearing procedures
33.25(17A)	Evidence
33.26(17A)	Default
33.27(17A)	Ex parte communication
33.28(17A)	Recording costs
33.29(17A)	Interlocutory appeals
33.30(17A,272C)	Decisions
33.31(17A,272C)	Client notification
33.32(17A,272C)	Application for rehearing
33.33(17A)	Stays of board actions
33.34(17A)	No factual dispute contested cases
33.35(17A)	Emergency adjudicative proceedings
33.36(17A,105,272C)	License denial
33.37(17A,105,272C)	Denial of application to renew license
33.38(105,272C)	Recovery of hearing fees and expenses
33.39(17A)	Judicial review
33.40(17A,272C)	Reinstatement

CHAPTER 34

PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

34.1(272C)	Complaints
34.2(272C)	Report of malpractice claims or actions or disciplinary actions
34.3(272C)	Report of acts or omissions
34.4(272C)	Investigation of complaints or reports
34.5(17A,272C)	Issuance of investigatory subpoenas
34.6(272C)	Peer review committees
34.7(17A)	Appearance

CHAPTER 35

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE OF NONRESIDENT
APPLICANT—RECIPROCITY

35.1(105)	Definition
35.2(105)	Reciprocity agreements
35.3(105)	Application by reciprocity

CHAPTER 36

PLUMBING AND MECHANICAL SYSTEMS BOARD—
PETITIONS FOR RULE MAKING

36.1(17A)	Petition for rule making
36.2(17A)	Briefs
36.3(17A)	Inquiries
36.4(17A)	Board consideration

CHAPTER 37

PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

GENERAL PROVISIONS

37.1(136C)	Purpose and scope
37.2 to 37.4	Reserved

37.5(136C)	Definitions
37.6	Reserved
37.7(136C)	Communications
37.8 to 37.10	Reserved
37.11(136C)	Specific exemptions
37.12 to 37.20	Reserved
	BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM
37.21(136C)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material
37.22	Reserved
37.23(136C)	Access authorization program requirements
37.24	Reserved
37.25(136C)	Background investigations
37.26	Reserved
37.27(136C)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material
37.28	Reserved
37.29(136C)	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials
37.30	Reserved
37.31(136C)	Protection of information
37.32	Reserved
37.33(136C)	Access authorization program review
37.34 to 37.40	Reserved
	PHYSICAL PROTECTION REQUIREMENTS DURING USE
37.41(136C)	Security program
37.42	Reserved
37.43(136C)	General security program requirements
37.44	Reserved
37.45(136C)	LLEA coordination
37.46	Reserved
37.47(136C)	Security zones
37.48	Reserved
37.49(136C)	Monitoring, detection, and assessment
37.50	Reserved
37.51(136C)	Maintenance and testing
37.52	Reserved
37.53(136C)	Requirements for mobile devices
37.54	Reserved
37.55(136C)	Security program review
37.56	Reserved
37.57(136C)	Reporting of events
37.58 to 37.70	Reserved
	PHYSICAL PROTECTION IN TRANSIT
37.71(136C)	Additional requirements for transfer of category 1 and category 2 quantities of radioactive material
37.72	Reserved
37.73(136C)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit
37.74	Reserved

37.75(136C)	Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material
37.76	Reserved
37.77(136C)	Advance notification of shipment of category 1 quantities of radioactive material
37.78	Reserved
37.79(136C)	Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment
37.80	Reserved
37.81(136C)	Reporting of events
37.82 to 37.100	Reserved

RECORDS

37.101(136C)	Form of records
37.102	Reserved
37.103(136C)	Record retention
37.104	Reserved
37.105(136C)	Inspections

CHAPTER 38

GENERAL PROVISIONS FOR RADIATION MACHINES
AND RADIOACTIVE MATERIALS

38.1(136C)	Purpose and scope
38.2(136C)	Definitions
38.3(136C)	Exemptions from the regulatory requirements
38.4(136C)	General regulatory requirements
38.5	Reserved
38.6(136C)	Prohibited uses
38.7(136C)	Communications
38.8(136C)	Fees
38.9(136C)	Administrative enforcement actions
38.10(136C)	Deliberate misconduct

CHAPTER 39

REGISTRATION OF RADIATION MACHINE FACILITIES, LICENSURE OF RADIOACTIVE
MATERIALS AND TRANSPORTATION OF RADIOACTIVE MATERIALS

39.1(136C)	Purpose and scope
39.2(136C)	Definitions
39.3(136C)	Requirements for registration of X-ray and other electronic machines that produce radiation
39.4(136C)	Requirements for licensing of radioactive materials
39.5(136C)	Transportation of radioactive material

CHAPTER 40

STANDARDS FOR PROTECTION AGAINST RADIATION

GENERAL PROVISIONS

40.1(136C)	Purpose and scope
40.2(136C)	Definitions
40.3(136C)	Implementation
40.4 to 40.9	Reserved

RADIATION PROTECTION PROGRAMS

40.10(136C)	Radiation protection programs
40.11 to 40.14	Reserved

OCCUPATIONAL DOSE LIMITS

- 40.15(136C) Occupational dose limits for adults
- 40.16(136C) Compliance with requirements for summation of external and internal doses
- 40.17(136C) Determination of external dose from airborne radioactive material
- 40.18(136C) Determination of internal exposure
- 40.19(136C) Determination of prior occupational dose
- 40.20(136C) Planned special exposures
- 40.21(136C) Occupational dose limits for minors
- 40.22(136C) Dose equivalent to an embryo/fetus
- 40.23 to 40.25 Reserved

RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

- 40.26(136C) Dose limits for individual members of the public
- 40.27(136C) Compliance with dose limits for individual members of the public

RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

- 40.28(136C) Radiological criteria for license termination
- 40.29(136C) Radiological criteria for unrestricted use
- 40.30(136C) Criteria for license termination under restricted conditions
- 40.31(136C) Alternate criteria for license termination

TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

- 40.32(136C) Testing for leakage or contamination of sealed sources
- 40.33 to 40.35 Reserved

SURVEYS AND MONITORING

- 40.36(136C) Surveys and monitoring—general
- 40.37(136C) Conditions requiring individual monitoring of external and internal occupational dose
- 40.38 to 40.41 Reserved

CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

- 40.42(136C) Control of access to high radiation areas
- 40.43(136C) Control of access to very high radiation areas
- 40.44(136C) Control of access to very high radiation areas—irradiators
- 40.45 to 40.47 Reserved

RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT
INTERNAL EXPOSURE IN RESTRICTED AREAS

- 40.48(136C) Use of process or other engineering controls
- 40.49(136C) Use of other controls
- 40.50(136C) Use of individual respiratory protection equipment
- 40.51 to 40.53 Reserved

STORAGE AND CONTROL OF LICENSED OR REGISTERED
SOURCES OF RADIATION

- 40.54 Reserved
- 40.55(136C) Security and control of licensed or registered sources of radiation
- 40.56(136C) Control of sources of radiation not in storage
- 40.57 to 40.59 Reserved

PRECAUTIONARY PROCEDURES

- 40.60(136C) Caution signs
- 40.61(136C) Posting requirements
- 40.62(136C) Exceptions to posting requirements
- 40.63(136C) Labeling containers and radiation machines
- 40.64(136C) Exemptions to labeling requirements

40.65(136C) Procedures for receiving and opening packages
 40.66 to 40.69 Reserved

WASTE DISPOSAL

40.70(136C) General requirements
 40.71(136C) Method for obtaining approval of proposed disposal procedures
 40.72(136C) Disposal by release into sanitary sewerage
 40.73(136C) Treatment or disposal by incineration
 40.74(136C) Disposal of specific wastes
 40.75(136C) Transfer for disposal and manifests
 40.76(136C) Compliance with environmental and health protection regulations
 40.77(136C) Disposal of certain by-product material
 40.78 and 40.79 Reserved

RECORDS

40.80(136C) General provisions
 40.81(136C) Records of radiation protection programs
 40.82(136C) Records of surveys
 40.83(136C) Records of tests for leakage or contamination of sealed sources
 40.84(136C) Records of prior occupational dose
 40.85(136C) Records of planned special exposures
 40.86(136C) Records of individual monitoring results
 40.87(136C) Records of dose to individual members of the public
 40.88(136C) Records of waste disposal
 40.89(136C) Records of testing entry control devices for very high radiation areas
 40.90(136C) Form of records
 40.91 to 40.94 Reserved

REPORTS

40.95(136C) Reports of stolen, lost, or missing licensed or registered sources of radiation
 40.96(136C) Notification of incidents
 40.97(136C) Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits
 40.98(136C) Reports of planned special exposures
 40.99(136C) Reports of transactions involving nationally tracked sources
 40.100(136C) Reports of individual monitoring
 40.101(136C) Notifications and reports to individuals
 40.102(136C) Reports of leaking or contaminated sealed sources
 40.103 and 40.104 Reserved

ADDITIONAL REQUIREMENTS

40.105(136C) Vacating premises
 40.106 to 40.109 Reserved

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

40.110(136C) Posting of notices to workers
 40.111(136C) Instructions to workers
 40.112(136C) Notifications and reports to individuals
 40.113(136C) Presence of representatives of licensees or registrants and workers during inspection
 40.114(136C) Consultation with workers during inspections
 40.115(136C) Requests by workers for inspections
 40.116(136C) Inspections not warranted—informal review
 40.117(136C) Employee protection

CHAPTER 41
SAFETY REQUIREMENTS FOR THE USE OF
RADIATION MACHINES AND CERTAIN USES
OF RADIOACTIVE MATERIALS

41.1(136C)	X-rays in the healing arts
41.2(136C)	Use of radionuclides in the healing arts
41.3(136C)	Therapeutic use of radiation machines
41.4 and 41.5	Reserved
41.6(136C)	X-ray machines used for screening and diagnostic mammography
41.7(136C)	X-ray machines used for stereotactically guided breast biopsy

CHAPTER 42
PERMIT TO OPERATE IONIZING RADIATION PRODUCING MACHINES
OR ADMINISTER RADIOACTIVE MATERIALS

42.1(136C)	Purpose
42.2(136C)	Definitions
42.3(136C)	Exemptions

PERMIT APPLICATION AND RENEWAL

42.4(136C)	Permit application and renewal
42.5(136C)	Permit to practice as a general radiologic technologist
42.6(136C)	Permit to practice as a general nuclear medicine technologist
42.7(136C)	Permit to practice as a radiation therapist
42.8(136C)	Permit to practice as a radiologist assistant
42.9(136C)	Permit to practice as a limited radiologic technologist with categories of chest, spine, extremities, shoulder, pediatric
42.10(136C)	Permit to practice as an X-ray equipment operator in either podiatric radiography or bone densitometry
42.11	Reserved
42.12(136C)	Closed classification or category permits
42.13(136C)	Combining permits for an individual qualifying for permits in more than one classification
42.14 to 42.17	Reserved

PERMIT HOLDER SUBMISSION OF CONTINUING EDUCATION

42.18(136C)	Submission of proof of completion of continuing education by permit holder to meet continuing education requirements to renew or reinstate a permit
42.19 and 42.20	Reserved

ADMINISTRATIVE ITEMS AND GROUNDS FOR DISCIPLINARY ACTION

42.21(136C)	Administrative items
42.22(136C)	Rules of conduct, self-reporting requirements, and enforcement actions for all permit holders
42.23(136C)	Procedures for demand for information, notice of proposed action, and orders for penalties, suspensions, revocations, and civil penalties for all individuals under this chapter
42.24 and 42.25	Reserved

DEPARTMENT APPROVAL OF CONTINUING EDUCATION ACTIVITIES

42.26(136C)	Department approval of continuing education activities
42.27 to 42.29	Reserved

FORMAL EDUCATION

42.30(136C)	Requirements for formal education
42.31(136C)	Standards for formal education for limited radiologic technologists

- 42.32(136C) Standards for formal education for X-ray equipment operators in podiatric radiography
- 42.33(136C) Standards for formal education for X-ray equipment operators in bone densitometry

CHAPTER 43

MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

- 43.1(136B) Purpose and scope
- 43.2(136B) Definitions
- 43.3(136B) General provisions
- 43.4(136B) Application for certification
- 43.5(136B) Revocation of certification
- 43.6(136B) Reporting requirements
- 43.7(136B) Training and continuing education programs
- 43.8(136B) Exemptions
- 43.9(136B) Enforcement
- 43.10(136B) Penalties
- 43.11(136B) Persons exempted from certification

CHAPTER 44

MINIMUM REQUIREMENTS FOR RADON MITIGATION

- 44.1(136B) Purpose and scope
- 44.2(136B) Definitions
- 44.3(136B) General provisions
- 44.4(136B) Application for credentialing
- 44.5(136B) Revocation of credentialing
- 44.6(136B) Additional record-keeping requirements
- 44.7(136B) Continuing education
- 44.8(136B) Exemptions
- 44.9(136B) Enforcement
- 44.10(136B) Penalties

CHAPTER 45

RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

- 45.1(136C) General requirements for industrial radiography operations
- 45.2(136C) Radiation safety requirements for the use of radiation machines in industrial radiography
- 45.3(136C) Radiation safety requirements for use of sealed sources of radiation in industrial radiography
- 45.4(136C) Radiation safety requirements for the use of particle accelerators for nonhuman use
- 45.5(136C) Radiation safety requirements for analytical X-ray equipment
- 45.6(136C) Radiation safety requirements for well-logging, wireline service operations and subsurface tracer studies

CHAPTER 46

MINIMUM REQUIREMENTS FOR TANNING FACILITIES

- 46.1(136D) Purpose and scope
- 46.2(136D) Definitions
- 46.3(136D) Exemptions
- 46.4(136D) Permits and fees
- 46.5(136D) Construction and operation of tanning facilities
- 46.6(136D) Inspections, violations and injunctions

CHAPTERS 47 to 49

Reserved

CHAPTER 50

ORAL HEALTH

50.1(135)	Purpose
50.2(135)	Definitions
50.3(135)	Dental director responsibilities
50.4(135)	Oral health bureau functions
50.5(135)	Funding

CHAPTER 51

DENTAL SCREENING

51.1(135)	Purpose
51.2(135)	Definitions
51.3(135)	Persons included
51.4(135)	Persons excluded
51.5(135)	Dental screening components
51.6(135)	Dental screening providers
51.7(135)	Time line for valid dental screening
51.8(135)	Proof of dental screening
51.9(135)	Dental screening documentation
51.10(135)	Assuring dental screening services
51.11(135)	Records
51.12(135)	Reporting
51.13(135)	Iowa's dental screening database
51.14(135)	Release of dental screening information
51.15(135)	Referral requirements
51.16(135)	Provider training

CHAPTERS 52 to 54

Reserved

CHAPTER 55

ADVISORY COUNCIL ON BRAIN INJURIES

55.1(135)	Definitions
55.2(135)	Mission of council
55.3(135)	Council established
55.4(135)	Officers
55.5(135)	Duties of the council
55.6(135)	Meetings
55.7(135)	Minutes
55.8(135)	Task forces
55.9(135)	Expenses of advisory council members

CHAPTER 56

BRAIN INJURY SERVICES PROGRAM

56.1(135)	Definitions
56.2(135)	Purpose
56.3(135)	Waiver-eligible component
56.4(135)	Cost-share component
56.5(135)	Application process
56.6(135)	Service providers and reimbursement

- 56.7(135) Available services/service plan
- 56.8(135) Redetermination
- 56.9(135) Appeal rights

CHAPTER 57

PLUMBING AND MECHANICAL SYSTEMS BOARD—
DECLARATORY ORDERS

- 57.1(17A) Petition for declaratory order
- 57.2(17A) Notice of petition
- 57.3(17A) Intervention
- 57.4(17A) Briefs
- 57.5(17A) Inquiries
- 57.6(17A) Service and filing of petitions and other papers
- 57.7(17A) Consideration
- 57.8(17A) Action on petition
- 57.9(17A) Refusal to issue order
- 57.10(17A) Contents of declaratory order—effective date
- 57.11(17A) Copies of orders
- 57.12(17A) Effect of a declaratory order

CHAPTER 58

PLUMBING AND MECHANICAL SYSTEMS BOARD—
AGENCY PROCEDURE FOR RULE MAKING

- 58.1(17A) Applicability
- 58.2(17A) Advice on possible rules before notice of proposed rule adoption
- 58.3(17A) Public rule-making docket
- 58.4(17A) Notice of proposed rule making
- 58.5(17A) Public participation
- 58.6(17A) Regulatory analysis
- 58.7(17A) Fiscal impact statement
- 58.8(17A) Time and manner of rule adoption
- 58.9(17A) Variance between adopted rule and published notice of proposed rule adoption
- 58.10(17A) Exemptions from public rule-making procedures
- 58.11(17A) Concise statement of reasons
- 58.12(17A) Contents, style, and form of rule
- 58.13(17A) Agency rule-making record
- 58.14(17A) Filing of rules
- 58.15(17A) Effectiveness of rules prior to publication
- 58.16(17A) General statements of policy
- 58.17(17A) Review by agency of rules

CHAPTER 59

PLUMBING AND MECHANICAL SYSTEMS BOARD—FAIR INFORMATION
PRACTICES AND PUBLIC RECORDS

- 59.1(17A,22) Definitions
- 59.2(17A,22) Statement of policy
- 59.3(17A,22) Requests for access to records
- 59.4(17A,22) Access to confidential records
- 59.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination
- 59.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records
- 59.7(17A,22) Consent to disclosure by the subject of a confidential record

59.8(17A,22)	Notice to suppliers of information
59.9(17A,22)	Disclosures without the consent of the subject
59.10(17A,22)	Routine use
59.11(17A,22)	Consensual disclosure of confidential records
59.12(17A,22)	Release to subject
59.13(17A,22)	Availability of records
59.14(17A,22)	Personally identifiable information
59.15(17A,22)	Other groups of records routinely available for public inspection
59.16(17A,22)	Applicability

CHAPTER 60

PLUMBING AND MECHANICAL SYSTEMS BOARD—
NONCOMPLIANCE REGARDING CHILD SUPPORT, NONPAYMENT OF STATE DEBT,
AND NONCOMPLIANCE REGARDING STUDENT LOAN REPAYMENT

60.1(252J)	Child support noncompliance
60.2(272D)	Nonpayment of state debt
60.3(261)	Student loan repayment noncompliance

CHAPTER 61

STATE MECHANICAL CODE

61.1(105)	Definitions
61.2(105)	Adoption by reference
61.3(105)	Hospitals and health care facilities
61.4(105)	Enforcement

CHAPTERS 62 to 66

Reserved

CHAPTER 67

BLOOD LEAD TESTING

67.1(135)	Purpose
67.2(135)	Definitions
67.3(135)	Persons included
67.4(135)	Persons excluded
67.5(135)	Blood lead testing requirement
67.6(135)	Time line for valid blood lead testing
67.7(135)	Proof of blood lead testing
67.8(135)	Referral requirements
67.9(135)	Blood lead testing documentation
67.10(135)	Records
67.11(135)	Provider training

CHAPTER 68

CONTROL OF LEAD-BASED PAINT HAZARDS

68.1(135)	Applicability
68.2(135)	Definitions
68.3(135)	Elevated blood lead (EBL) inspections required
68.4(135)	Refusal of admittance
68.5(135)	Lead hazard reduction required
68.6(135)	Retaliation prohibited
68.7(135)	Enforcement
68.8(135)	Hearings
68.9(135)	Variances

- 68.10(135) Injunction
- 68.11(135) Effective date

CHAPTER 69

RENOVATION, REMODELING, AND REPAINTING—
LEAD HAZARD NOTIFICATION PROCESS

- 69.1(135) Applicability
- 69.2(135) Definitions
- 69.3(135) Notification required in target housing
- 69.4(135) Notification required in multifamily housing
- 69.5(135) Emergency renovation, remodeling, or repainting in target housing
- 69.6(135) Certification of attempted delivery in target housing
- 69.7(135) Notification required in child-occupied facilities
- 69.8(135) Emergency renovation, remodeling, or repainting in child-occupied facilities
- 69.9(135) Certification of attempted delivery for child-occupied facilities
- 69.10(135) Subcontracts
- 69.11(135) Exemption
- 69.12(135) Record-keeping requirements
- 69.13(135) Compliance inspections
- 69.14(135) Enforcement
- 69.15(135) Waivers

CHAPTER 70

LEAD-BASED PAINT ACTIVITIES

- 70.1(135) Applicability
- 70.2(135) Definitions
- 70.3(135) Lead professional certification
- 70.4(135) Course approval and standards
- 70.5(135) Certification, interim certification, and recertification
- 70.6(135) Work practice standards for lead professionals conducting lead-based paint activities in target housing and child-occupied facilities
- 70.7(135) Firms
- 70.8 Reserved
- 70.9(135) Compliance inspections
- 70.10(135) Denial, suspension, or revocation of certification; denial, suspension, revocation, or modification of course approval; and imposition of penalties
- 70.11(135) Waivers

CHAPTER 71

EMERGENCY INFORMATION SYSTEM ON PESTICIDES FOR USE BY HEALTH CARE
PROVIDERS DURING MEDICAL EMERGENCIES

- 71.1(139A) Scope
- 71.2(139A) Definitions
- 71.3(139A) Operation of EIS

CHAPTER 72

CHILDHOOD LEAD POISONING
PREVENTION PROGRAM

- 72.1(135) Definitions
- 72.2(135) Approved programs
- 72.3(135) Level of funding
- 72.4(135) Appeals

CHAPTER 73
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS, AND CHILDREN (WIC)

73.1(135)	Program explanation
73.2(135)	Adoption by reference
73.3(135)	Availability of rules
73.4(135)	Certain rules exempted from public participation
73.5(135)	Definitions
73.6(135)	Staffing of contract agencies
73.7(135)	Certification of participants
73.8(135)	Food delivery
73.9(135)	Food package
73.10(135)	Education
73.11(135)	Health services
73.12(135)	Appeals and fair hearings—local agencies and vendors
73.13(135)	Right to appeal—participant
73.14(135)	State monitoring of contract agencies
73.15(135)	Migrant services
73.16(135)	Civil rights
73.17(135)	Audits
73.18(135)	Reporting
73.19(135)	Program violation
73.20(135)	Data processing
73.21(135)	Outreach
73.22(135)	Caseload management
73.23(135)	Grant application procedures for contract agencies
73.24(135)	Participant rights

CHAPTER 74
FAMILY PLANNING SERVICES

74.1(135)	Program explanation
74.2(135)	Adoption by reference
74.3(135)	Rule coverage
74.4(135)	Definitions
74.5(135)	Grant application procedures for contract agencies
74.6(135)	Funding levels for contract agencies
74.7(135)	Agency performance
74.8(135)	Reporting
74.9(135)	Fiscal management
74.10(135)	Audits
74.11(135)	Denial, suspension, revocation, or reduction of contracts with contract agencies
74.12(135)	Right to appeal—contract agency

CHAPTER 75
STATEWIDE OBSTETRICAL AND
NEWBORN INDIGENT PATIENT CARE PROGRAM

75.1(255A)	Definitions
75.2(255A)	Covered services
75.3(255A)	Quota assignment
75.4(255A)	Eligibility criteria
75.5(255A)	Application procedures
75.6(255A)	Reimbursement of providers

- 75.7(255A) Reassignment of county quotas
- 75.8(255A) Appeals and fair hearings

CHAPTER 76

MATERNAL AND CHILD HEALTH PROGRAM

- 76.1(135) Program overview
- 76.2(135) Adoption by reference
- 76.3(135) Rule coverage
- 76.4(135) Definitions
- 76.5(135) MCH services
- 76.6(135) Client eligibility criteria
- 76.7(135) Client application procedures for MCH services
- 76.8(135) Right to appeal—client
- 76.9(135) Grant application procedures for community-based contract agencies
- 76.10(135) Funding levels for community-based contract agencies
- 76.11(135) Contract agency performance
- 76.12(135) Reporting
- 76.13(135) Fiscal management
- 76.14(135) Audits
- 76.15 Reserved
- 76.16(135) Denial, suspension, revocation or reduction of contracts with contract agencies
- 76.17(135) Right to appeal—contract agency
- 76.18 to 76.20 Reserved

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

- 76.21(135) Purpose
- 76.22(135) Mission
- 76.23(135) Membership
- 76.24(135) Officers
- 76.25(135) Duties of the council
- 76.26(135) Meetings
- 76.27(135) Executive committee
- 76.28(135) Committees

CHAPTER 77

LOCAL BOARDS OF HEALTH

- 77.1(137) Purpose
- 77.2(137) Definitions
- 77.3(137) Local boards of health—roles and responsibilities
- 77.4(137) Local boards of health—Iowa public health standards
- 77.5(137) Organization of local boards of health
- 77.6(137) Operation of local boards of health
- 77.7(137) Expenses of local board of health members
- 77.8(137) District boards of health
- 77.9(137) Approval of district board of health formation
- 77.10(137) Denial of district board of health formation
- 77.11(137) Adding to a district board of health
- 77.12(137) Withdrawal from a district board of health

CHAPTERS 78 and 79

Reserved

CHAPTER 80
LOCAL PUBLIC HEALTH SERVICES

80.1(135)	Purpose
80.2(135)	Definitions
80.3(135)	Local public health services state grant
80.4(135)	Billing services to the local public health services state grant
80.5(135)	Right to appeal
80.6(135)	Case management
80.7(135)	Local board of health services
80.8(135)	Local public health services
80.9(135)	Public health nursing services
80.10(135)	Home care aide services

CHAPTER 81
GENERAL RULES FOR MIGRATORY LABOR CAMPS

81.1(138)	Shelters
81.2(138)	Water supply
81.3(138)	Waste disposal
81.4(138)	Bathing facilities
81.5(138)	Central dining facilities
81.6(138)	Safety and fire

CHAPTER 82
OFFICE OF MINORITY AND MULTICULTURAL HEALTH

82.1(135)	Purpose
82.2(135)	Definitions
82.3(135)	Responsibilities of the office of minority and multicultural health
82.4(135)	Advisory council

CHAPTERS 83 and 84
Reserved

CHAPTER 85
LOCAL SUBSTITUTE MEDICAL DECISION-MAKING BOARDS

85.1(135)	Purpose
85.2(135)	Definitions
85.3(135)	Appointment of local boards
85.4(135)	Filing an application
85.5(135)	Notification of patient and review of application
85.6(135)	Panel appointment and procedures
85.7(135)	Panel determination of need for surrogate decision making
85.8(135)	Panel determination regarding proposed medical care decision
85.9(135)	Right of appeal
85.10(135)	Records and reports
85.11(135)	Liability

CHAPTER 86
PLACES WHERE DEAD HUMAN BODIES ARE PREPARED
FOR BURIAL OR ENTOMBMENT

86.1(156)	Purpose
86.2(156)	Definitions
86.3(156)	Licensing
86.4(156)	Public access areas

86.5(156)	Preparation room
86.6(156)	Crematorium chambers
86.7(156)	Inspection fees

CHAPTER 87
HEALTHY FAMILIES IOWA (HFI)

87.1(135)	Purpose
87.2(135)	Definitions
87.3(135)	Applicant eligibility
87.4(135)	Participant eligibility
87.5(135)	Program requirements
87.6(135)	Contractor assurance
87.7(135)	Applicant appeal process
87.8(135)	Participant right to appeal

CHAPTER 88
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

88.1(135)	Purpose
88.2(135)	Definitions
88.3(135)	Eligibility for the volunteer health care provider program
88.4(135)	Sponsor entity and protected clinic
88.5(135)	Covered health care services
88.6(135)	Defense and indemnification
88.7(135)	Term of agreement
88.8(135)	Reporting requirements and duties
88.9(135)	Revocation of agreement
88.10(135)	Procedure for revocation of agreement
88.11(135)	Effect of suspension or revocation
88.12(135)	Protection denied
88.13(135)	Board notice of disciplinary action
88.14(135)	Effect of eligibility protection
88.15(135)	Reporting by a protected clinic or sponsor entity

CHAPTER 89
DECISION-MAKING ASSISTANCE PROGRAM
AND PARENTAL NOTIFICATION OF INTENT
TO TERMINATE A PREGNANCY THROUGH ABORTION

89.1(135L)	Title
89.2(135L)	Purpose and scope
89.3(135L)	Definitions
89.4 to 89.10	Reserved

DECISION-MAKING ASSISTANCE PROGRAM

89.11(135L)	Purpose
89.12(135L)	Initial appointment of a pregnant minor with a licensed physician from whom an abortion is sought and certification procedure for the decision-making assistance program
89.13 to 89.20	Reserved

NOTIFICATION PROCESS

89.21(135L)	Notification of parent prior to the performance of abortion on a pregnant minor
89.22(135L)	Exceptions to notification of parent
89.23(135L)	Physician compliance

89.24 and 89.25 Reserved
 89.26(135L) Fraudulent practice

CHAPTER 90
 IOWA CHILD DEATH REVIEW TEAM

90.1(135) Purpose
 90.2(135) Definitions
 90.3(135) Agency
 90.4(135) Membership
 90.5(135) Officers
 90.6(135) Meetings
 90.7(135) Expenses of team members
 90.8(135) Team responsibilities
 90.9(135) Liaisons
 90.10(135) Confidentiality and disclosure of information
 90.11(135) Immunity and liability

CHAPTER 91
 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM

91.1(135) Purpose
 91.2(135) Definitions
 91.3(135) Agency
 91.4(135) Membership
 91.5(135) Officers
 91.6(135) Meetings
 91.7(135) Expenses of team members
 91.8(135) Team duties and responsibilities
 91.9(135) Liaisons
 91.10(135) Confidentiality and disclosure of information
 91.11(135) Immunity and liability

CHAPTER 92
 IOWA FATALITY REVIEW COMMITTEE

92.1(135) Purpose
 92.2(135) Definitions
 92.3(135) Committee
 92.4(135) Formation of the committee
 92.5(135) Committee protocol for review
 92.6(135) Content of report
 92.7(135) Consultation with county attorney
 92.8(135) Supplemental report
 92.9(135) Confidentiality and disclosure of information
 92.10(135) Immunity and liability

CHAPTER 93
 MANDATORY REPORTER TRAINING CURRICULA

93.1(135) Purpose
 93.2 and 93.3 Reserved
 93.4(135) Duties
 93.5(135) Standards for approval of curricula
 93.6(135) Process for application review and approval
 93.7(135) Process for appeal

CHAPTER 94

CHILD PROTECTION CENTER GRANT PROGRAM

- 94.1(135) Scope and purpose
- 94.2(135) Definitions
- 94.3(135) Goals
- 94.4(135) Review process
- 94.5(135) Eligibility and criteria
- 94.6(135) Appeals

CHAPTER 95

VITAL RECORDS: GENERAL ADMINISTRATION

- 95.1(144) Definitions
- 95.2(144) Vital records and statistics
- 95.3(144) Forms—property of department
- 95.4(144) Information by others
- 95.5(144) Handling of vital records
- 95.6(144) Fees
- 95.7(144) General public access of vital records in the custody of the county registrar
- 95.8(144) Direct tangible interest in and entitlement to a vital record
- 95.9(144) Search and issuance of a certified copy of a vital record
- 95.10(144) Search and issuance for genealogy or family history
- 95.11(144) Registrars' responsibility for maintenance of confidentiality
- 95.12(144) Disclosure of data
- 95.13(144) Preparation of certified copies
- 95.14(144) Cancellation of fraudulent records
- 95.15(144) Unlawful acts
- 95.16(144) Enforcement assistance

CHAPTER 96

BIRTH REGISTRATION

- 96.1(144) Definitions
- 96.2(144) Forms—property of department
- 96.3(144) Standard birth registration—up to seven days
- 96.4(144) Standard birth registration—seven days to one year
- 96.5(144) Birthing institutions
- 96.6(144) Non-birthing institutions
- 96.7(144) Non-institution birth
- 96.8(144) Gestational surrogate arrangement birth registration
- 96.9(144) Foundling birth registration
- 96.10(144) Newborn safe haven registration
- 96.11(144) Birth registration following a foreign-born adoption
- 96.12(144) Birth registration fees
- 96.13(144) Fee collection
- 96.14(144) Waivers
- 96.15(144) Fee deposit
- 96.16(144) Responsibilities of institutions
- 96.17(144) Responsibility for births occurring in non-institutions and non-birthing institutions
- 96.18(144) Delayed birth registration—one year or more after event

CHAPTER 97

DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

- 97.1(144) Definitions
- 97.2(144) Forms—property of department

97.3(144)	Standard registration of death—up to one year
97.4(144)	Standard registration of fetal death—up to one year
97.5(144)	Preparation of the certificate of death or fetal death
97.6(144)	Medical certification of death
97.7(144)	Medical certification of fetal death
97.8(144)	Medical certifier
97.9(144)	Report of autopsy findings
97.10(144)	Extension of time
97.11(144)	Removal of a dead human body or fetus
97.12(144)	Burial-transit permit
97.13(144)	Transportation and disposition of a dead human body or fetus
97.14(144)	Disinterment permits
97.15(144)	Delayed death registration—one year or more after event
97.16(144)	Registration of presumptive death
97.17(144)	Release or final disposition of a dead human body or fetus by an institution
97.18(144)	Additional record by funeral director

CHAPTER 98 MARRIAGE REGISTRATION

98.1(144,595)	Definitions
98.2(144,595)	Forms—property of department
98.3(144,595)	Standard registration of marriage—up to one year
98.4(144,595)	Application for a license to marry in Iowa
98.5(144,595)	License to marry
98.6(144, 595)	Certificate of marriage
98.7(144,595)	Delayed registration of marriage—one year or more after date of event
98.8(144,595)	Dissolution of marriage or annulment

CHAPTER 99 VITAL RECORDS MODIFICATIONS

99.1(144)	Definitions
99.2(144)	Forms—property of department
99.3(144)	Forms used in the establishment of new records
99.4(144)	Corrections of minor error in vital record—within one year of event
99.5(144)	Amendment of certificate of live birth to add first or middle given name—within one year of event
99.6(144)	Amendment of vital record—one year or more after the event
99.7(144)	Method of amendment of vital records
99.8(144)	Correction or amendment of same item more than once
99.9(144)	Other amendments to certificate of live birth
99.10(144)	Correction or amendment to medical certification of cause of death
99.11(144)	Correction or amendment to a certificate of marriage
99.12(144)	Correction to a report of dissolution of marriage or annulment
99.13(144)	Minimum information required to establish a new certificate of live birth
99.14(144)	Establishment of new certificate of live birth following adoption
99.15(144)	Establishment of new certificate of live birth following a birth by gestational surrogate arrangement
99.16(144)	Certificate of live birth following voluntary paternity affidavit
99.17(144)	Certificate of live birth following court determination of paternity
99.18(144)	Certificate of live birth following rescission of paternity affidavit or disestablishment of paternity

- 99.19(144) Certificate of live birth following court-ordered change of name
 99.20(144) Certificate of live birth following sex designation change

CHAPTER 100

VITAL RECORDS REGISTRIES AND REPORTS

- 100.1(144) Definitions
 100.2(144) Forms—property of department
 100.3(144) Declaration of paternity registry established
 100.4(144) Mutual consent voluntary adoption registry established
 100.5(144) Statistical report of termination of pregnancy report

CHAPTERS 101 to 107

Reserved

CHAPTER 108

MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM

- 108.1(135) Scope and purpose
 108.2(135) Definitions
 108.3(135) Eligibility criteria
 108.4(135) Amount of grant
 108.5(135) Review process

CHAPTER 109

PRESCRIPTION DRUG DONATION REPOSITORY PROGRAM

- 109.1(135M) Definitions
 109.2(135M) Purpose
 109.3(135M) Eligibility criteria for program participation by medical facilities and pharmacies
 109.4(135M) Standards and procedures for accepting donated prescription drugs and supplies
 109.5(135M) Standards and procedures for inspecting and storing donated prescription drugs and supplies
 109.6(135M) Standards and procedures for dispensing donated prescription drugs and supplies
 109.7(135M) Eligibility criteria for individuals to receive donated prescription drugs and supplies
 109.8(135M) Forms and record keeping
 109.9(135M) Handling fee
 109.10(135M) List of drugs and supplies program will accept
 109.11(135M) Exemption from disciplinary action, civil liability and criminal prosecution
 109.12 and 109.13 Reserved
 109.14(135M) Prescription drug donation repository in disaster emergencies

CHAPTER 110

CENTER FOR RURAL HEALTH
AND PRIMARY CARE

- 110.1(135) Purpose and scope
 110.2(135) Definitions
 110.3(135) Responsibilities of the center
 110.4(135) Advisory committee to the center for rural health and primary care
 110.5(135) Organization
 110.6(135) Meetings
 110.7 to 110.10 Reserved

PRIMECARRE COMMUNITY GRANT PROGRAM

- 110.11(135) Purpose
 110.12 to 110.15 Reserved

PRIMECARRE PRIMARY CARE PROVIDER
COMMUNITY SCHOLARSHIP PROGRAM

110.16(135) Purpose
110.17 to 110.20 Reserved

PRIMECARRE PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM

110.21(135) Purpose

CHAPTER 111

IOWA NEEDS NURSES NOW INFRASTRUCTURE ACCOUNT

111.1(135) Scope and purpose
111.2(135) Definitions
111.3(135) Eligibility and criteria
111.4(135) Review process
111.5(135) Performance standards
111.6(135) Appeals

CHAPTER 112

BIOLOGICAL AGENT RISK ASSESSMENT

112.1(135) Purpose
112.2(135) Definitions
112.3(135) Biosecurity council established
112.4(135) Biological agent risk assessment
112.5(135) Requests for biological agent information
112.6(135) Exceptions

CHAPTER 113

PUBLIC HEALTH RESPONSE TEAMS

113.1(135) Definitions
113.2(135) Purpose
113.3(135) Sponsor agency
113.4(135) Public health response team members
113.5(135) Public health response team
113.6(135) Legal and other protections
113.7(135) Reporting requirements and duties

CHAPTER 114

PREPAREDNESS ADVISORY COMMITTEE

114.1(135) Definitions
114.2(135) Purpose
114.3(135) Appointment
114.4(135) Membership
114.5(135) Officers
114.6(135) Meetings
114.7(135) Subcommittees
114.8(135) Expenses of preparedness advisory committee voting members
114.9(135) Gender balance

CHAPTERS 115 to 123

Reserved

CHAPTER 124
INTERAGENCY COORDINATING COUNCIL
FOR THE STATE MEDICAL EXAMINER

- 124.1(691) Purpose
- 124.2(691) Membership
- 124.3(691) Meetings
- 124.4(691) Duties
- 124.5(691) Minutes

CHAPTER 125
ADVISORY COUNCIL FOR THE STATE MEDICAL EXAMINER

- 125.1(691) Purpose
- 125.2(691) Membership
- 125.3(691) Meetings
- 125.4(691) Duties
- 125.5(691) Minutes

CHAPTER 126
STATE MEDICAL EXAMINER

- 126.1(144,331,691) Definitions
- 126.2 Reserved
- 126.3(691) Fees for autopsies and related services and reimbursement for related expenses
- 126.4(691) Fees for tissue recovery

CHAPTER 127
COUNTY MEDICAL EXAMINERS

- 127.1(144,331,691) Definitions
- 127.2(331,691) Duties of medical examiners—jurisdiction over deaths which affect the public interest
- 127.3(331,691) Autopsies
- 127.4(331,691) Fees
- 127.5(144,331,691) Death certificates—deaths affecting the public interest
- 127.6(331,691) Cremation
- 127.7(331,691) County medical examiner investigators
- 127.8(331,691) Deputy county medical examiners
- 127.9(331,691) Failure to comply with rules
- 127.10(331,691,22) Confidentiality
- 127.11(331,691,670) Indemnification

CHAPTERS 128 and 129
Reserved

CHAPTER 130
EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

- 130.1(147A) Definitions
- 130.2(147A) Purpose
- 130.3(147A) Appointment
- 130.4(147A) Absences
- 130.5(147A) Officers
- 130.6(147A) Meetings
- 130.7(147A) Subcommittees
- 130.8(147A) Expenses of advisory council members
- 130.9(147A) Gender balance

CHAPTER 131
EMERGENCY MEDICAL SERVICES—PROVIDER
EDUCATION/TRAINING/CERTIFICATION

- 131.1(147A) Definitions
- 131.2(147A) Emergency medical care providers—requirements for enrollment in training programs
- 131.3(147A) Emergency medical care providers—authority
- 131.4(147A) Emergency medical care providers—certification, renewal standards, procedures, continuing education, and fees
- 131.5(147A) Training programs—standards, application, inspection and approval
- 131.6(147A) Continuing education providers—approval, record keeping and inspection
- 131.7(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal
- 131.8(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program approval or renewal
- 131.9(147A) Reinstatement of certification
- 131.10(147A) Certification denial
- 131.11(147A) Emergency adjudicative proceedings
- 131.12(147A) Complaints, investigations and appeals

CHAPTER 132
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

- 132.1(147A) Definitions
- 132.2(147A) Authority of emergency medical care provider
- 132.3 to 132.6 Reserved
- 132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
- 132.8(147A) Service program levels of care and staffing standards
- 132.9(147A) Service program—off-line medical direction
- 132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
- 132.11 to 132.13 Reserved
- 132.14(147A) Temporary variances
- 132.15(147A) Transport options for fully authorized EMT-P, PS, and paramedic service programs

CHAPTER 133
WHITE FLASHING LIGHT AUTHORIZATION

- 133.1(321) Definitions
- 133.2(321) Purpose
- 133.3(321) Application
- 133.4(321) Approval, denial, probation, suspension and revocation of authorization
- 133.5(321) Appeal of denial, probation, or revocation of authorization

CHAPTER 134
TRAUMA CARE FACILITY CATEGORIZATION
AND VERIFICATION

- 134.1(147A) Definitions
- 134.2(147A) Trauma care facility categorization and verification
- 134.3(147A) Complaints and investigations and appeals—denial, citation and warning, probation, suspension, and revocation of verification as a trauma care facility

CHAPTER 135

TRAUMA TRIAGE AND TRANSFER PROTOCOLS

- 135.1(147A) Definitions
- 135.2(147A) Trauma triage and transfer protocols
- 135.3(147A) Offenses and penalties

CHAPTER 136

TRAUMA REGISTRY

- 136.1(147A) Definitions
- 136.2(147A) Trauma registry
- 136.3(147A) Offenses and penalties

CHAPTER 137

TRAUMA EDUCATION AND TRAINING

- 137.1(147A) Definitions
- 137.2(147A) Initial trauma education for Iowa's trauma system
- 137.3(147A) Continuing trauma education for Iowa's trauma system
- 137.4(147A) Offenses and penalties

CHAPTER 138

TRAUMA SYSTEM EVALUATION QUALITY IMPROVEMENT COMMITTEE

- 138.1(147A) Definitions
- 138.2(147A) System evaluation quality improvement committee (SEQIC)

CHAPTER 139

IOWA LAW ENFORCEMENT EMERGENCY CARE PROVIDER

- 139.1(147A) Definitions
- 139.2(147A) Authority of Iowa law enforcement emergency care provider
- 139.3(147A) Iowa law enforcement emergency care providers—requirements for enrollment in training programs
- 139.4(147A) Iowa law enforcement emergency care providers—certification, renewal standards and procedures, and fees
- 139.5(147A) Iowa law enforcement training programs
- 139.6(147A) Law enforcement AED service program authorization

CHAPTER 140

EMERGENCY MEDICAL SERVICES SYSTEM DEVELOPMENT GRANTS FUND

- 140.1(135) Definitions
- 140.2(135) Purpose
- 140.3(135) County EMS associations
- 140.4(135) County EMS system development grants

CHAPTER 141

LOVE OUR KIDS GRANT

- 141.1(321) Definitions
- 141.2(321) Purpose
- 141.3(321) Funding limitations
- 141.4(321) Use of funds
- 141.5(321) Application process
- 141.6(321) Application denial or partial denial—appeal

CHAPTER 142

OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

- 142.1(144A) Definitions
- 142.2(144A) Purpose
- 142.3(144A,147A) Responsibilities of the department
- 142.4(144A,147A) EMS providers
- 142.5(144A) Guidelines for non-EMS health care providers, patients, and organizations
- 142.6(144A) Revocation of the out-of-hospital do-not-resuscitate order
- 142.7(144A) Personal wishes of family members or other individuals who are not authorized to act on the patient's behalf
- 142.8(144A) Transfer of patients
- 142.9(144A) Application to existing orders

CHAPTER 143

AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

AUTOMATED EXTERNAL DEFIBRILLATOR GRANT PROGRAM

- 143.1(135) Purpose
- 143.2(135) Definitions
- 143.3(135) Application process
- 143.4(135) Early defibrillation program
- 143.5(135) Review process
- 143.6(135) Appeals
- 143.7 to 143.9 Reserved

AUTOMATED EXTERNAL DEFIBRILLATOR MAINTENANCE

- 143.10(135) Purpose
- 143.11(135) Definition
- 143.12(135) AED maintenance
- 143.13 to 143.15 Reserved

FIRE DEPARTMENT RESPONSE WITH AUTOMATED EXTERNAL DEFIBRILLATOR

- 143.16(147A) Purpose
- 143.17(147A) Definitions
- 143.18(147A) Local fire department AED service registration

CHAPTER 144

EMERGENCY MEDICAL SERVICES—AIR MEDICAL SERVICE
PROGRAM AUTHORIZATION

- 144.1(147A) Definitions
- 144.2(147A) Authority of emergency medical care provider
- 144.3(147A) Air ambulance service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization
- 144.4(147A) Service program levels of care and staffing standards
- 144.5(147A) Air ambulance service program—off-line medical direction
- 144.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal
- 144.7(147A) Temporary variances
- 144.8(147A) Transport options for air medical services

CHAPTERS 145 to 149

Reserved

CHAPTER 150

IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

- 150.1(135,77GA,ch1221) Purpose and scope
- 150.2(135,77GA,ch1221) Definitions
- 150.3(135,77GA,ch1221) Perinatal guidelines advisory committee
- 150.4(135,77GA,ch1221) Categorization and selection of level of care designation
- 150.5(135,77GA,ch1221) Recommendation by the statewide perinatal care program
- 150.6(135,77GA,ch1221) Level I hospitals
- 150.7(135,77GA,ch1221) Level II hospitals
- 150.8(135,77GA,ch1221) Level II regional centers
- 150.9(135,77GA,ch1221) Level II regional neonatology centers
- 150.10(135,77GA,ch1221) Level III centers
- 150.11(135,77GA,ch1221) Grant or denial of certificate of verification; and offenses and penalties
- 150.12(135,77GA,ch1221) Prohibited acts
- 150.13(135,77GA,ch1221) Construction of rules

CHAPTER 151

TOBACCO USE PREVENTION AND CONTROL
COMMUNITY PARTNERSHIP INITIATIVE

- 151.1(142A) Scope
- 151.2(142A) Community partnership areas
- 151.3(142A) Community partnerships
- 151.4(142A) Application requirements for community partnerships
- 151.5(142A) Performance indicators
- 151.6(142A) Application deadline
- 151.7(142A) Distribution of funding
- 151.8(142A) Gifts

CHAPTER 152

TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

- 152.1(78GA,HF2565) Scope and purpose
- 152.2(78GA,HF2565) Funding
- 152.3(78GA,HF2565) Appeals

CHAPTER 153

SMOKEFREE AIR

- 153.1(82GA,HF2212) Purpose and scope
- 153.2(82GA,HF2212) Definitions
- 153.3(82GA,HF2212) Prohibition of smoking
- 153.4(82GA,HF2212) Areas where smoking not regulated
- 153.5(82GA,HF2212) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to 2008 Iowa Acts, House File 2212, section 5, or outdoor areas where smoking is prohibited
- 153.6(82GA,HF2212) Duties of other state agencies and political subdivisions
- 153.7(82GA,HF2212) Leases
- 153.8(82GA,HF2212) Complaints and enforcement
- 153.9(82GA,HF2212) Limitation of rules

CHAPTER 154

Reserved

CHAPTER 155
LICENSURE STANDARDS FOR SUBSTANCE ABUSE AND PROBLEM GAMBLING
TREATMENT PROGRAMS

155.1(125,135)	Definitions
155.2(125,135)	Licensing
155.3(125,135)	Type of licenses
155.4(125,135)	Nonassignability; program closure
155.5(125,135)	Application procedures
155.6(125,135)	Application review
155.7(125,135)	Inspection of licensees
155.8(125,135)	Licenses—renewal
155.9(125,135)	Corrective action plan
155.10(125,135)	Grounds for denial of initial license
155.11(125,135)	Suspension, revocation, or refusal to renew a license
155.12(125,135)	Contested case hearing
155.13(125,135)	Rehearing application
155.14(125,135)	Judicial review
155.15(125,135)	Reissuance or reinstatement
155.16(125,135)	Complaints and investigations
155.17	Reserved
155.18(125,135)	Deemed status
155.19(125,135)	Funding
155.20(125,135)	Inspection
155.21(125,135)	General standards for all treatment programs
155.22(125,135)	Inpatient, residential, and halfway house safety
155.23(125,135)	Specific standards for inpatient, residential, and halfway house service
155.24(125,135)	Specific standards for inpatient, residential, and halfway house services for juveniles
155.25(125,135)	Specific standards for assessment and evaluation programs
155.26 to 155.34	Reserved
155.35(125,135)	Specific standards for opioid treatment programs

TUBERCULOSIS (TB) SCREENING:
HEALTH CARE WORKERS AND RESIDENTS

155.36(125,135)	Purpose
155.37(125,135)	Definitions
155.38(125,135)	Tuberculosis screening of staff and residents

CHAPTER 156
LICENSURE STANDARDS FOR SUBSTANCE ABUSE TREATMENT PROGRAMS
IN CORRECTIONAL FACILITIES

156.1(125)	Definitions
156.2(125)	Inspection
156.3(125)	General standards for all correctional substance abuse treatment programs

CHAPTER 157
STANDARDS FOR SUBSTANCE ABUSE TREATMENT AND
ASSESSMENT PROGRAMS AND THE OPERATING A MOTOR VEHICLE
WHILE INTOXICATED (OWI) LAW

157.1(125)	Definitions
157.2(125)	Screening, evaluation, treatment, and drinking drivers course
157.3(125)	Screening, evaluation, treatment, and drinking drivers course completion
157.4(125)	Cost of evaluation and treatment

157.5(125)	Timeliness
157.6(125)	Confidentiality
157.7(125)	Records
157.8(125)	Reciprocity

CHAPTER 158

REGIONS FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT

158.1(125)	Service areas established
158.2(125)	Request for a change in service areas
158.3(125)	Application
158.4(125)	Notification of affected parties
158.5(125)	Public hearing
158.6(125)	Proposed decision
158.7(125)	Change during term of contract
158.8(125)	State board of health review
158.9(125)	State board of health decision

CHAPTERS 159 to 169

Reserved

CHAPTER 170

ORGANIZATION OF THE DEPARTMENT

170.1(17A,135)	Definitions
170.2(17A,135)	Mission
170.3(17A,136)	State board of health
170.4(17A,135)	Director of the department of public health
170.5(17A,135)	Deputy director
170.6(17A,135)	Executive team
170.7(17A,135)	Administrative divisions of the department
170.8(17A)	Central office
170.9(17A)	Business hours
170.10(17A)	Submission of materials
170.11(17A)	Requests for information

CHAPTER 171

PETITIONS FOR RULE MAKING

171.1(17A)	Petition for rule making
171.2(17A)	Briefs
171.3(17A)	Inquiries
171.4(17A)	Department consideration

CHAPTER 172

DECLARATORY ORDERS

172.1(17A)	Petition for declaratory order
172.2(17A)	Notice of petition
172.3(17A)	Intervention
172.4(17A)	Briefs
172.5(17A)	Inquiries
172.6(17A)	Service and filing of petitions and other papers
172.7(17A)	Consideration
172.8(17A)	Action on petition
172.9(17A)	Refusal to issue order
172.10(17A)	Contents of declaratory order—effective date

- 172.11(17A) Copies of orders
- 172.12(17A) Effect of a declaratory order

CHAPTER 173
CONTESTED CASES

- 173.1(17A) Scope and applicability
- 173.2(17A) Definitions
- 173.3(17A) Time requirements
- 173.4(17A) Requests for contested case proceeding
- 173.5(17A) Notice of hearing
- 173.6(17A) Presiding officer
- 173.7(17A) Waiver of procedures
- 173.8(17A) Telephone proceedings
- 173.9(17A) Disqualification
- 173.10(17A) Consolidation—severance
- 173.11(17A) Pleadings
- 173.12(17A) Service and filing of pleadings and other papers
- 173.13(17A) Discovery
- 173.14(17A,135) Subpoenas
- 173.15(17A) Motions
- 173.16(17A) Prehearing conference
- 173.17(17A) Continuances
- 173.18(17A) Withdrawals
- 173.19(17A) Intervention
- 173.20(17A) Hearing procedures
- 173.21(17A) Evidence
- 173.22(17A) Default
- 173.23(17A) Ex parte communication
- 173.24(17A) Recording costs
- 173.25(17A) Interlocutory appeals
- 173.26(17A) Final decision
- 173.27(17A) Appeals and review
- 173.28(17A) Applications for rehearing
- 173.29(17A) Stays of department actions
- 173.30(17A) No factual dispute contested cases
- 173.31(17A) Emergency adjudicative proceedings

CHAPTER 174
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

- 174.3(17A) Public rule-making docket
- 174.4(17A) Notice of proposed rule making
- 174.5(17A) Public participation
- 174.6(17A) Regulatory flexibility analysis
- 174.11(17A) Concise statement of reasons
- 174.13(17A) Agency rule-making record

CHAPTER 175
FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

- 175.1(17A,22) Definitions
- 175.2(17A,22) Statement of policy
- 175.3(17A,22) Requests for access to records
- 175.4(17A,22) Access to confidential records

175.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examination
175.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
175.7(17A,22)	Consent to disclosure by the subject of a confidential record
175.8(17A,22)	Notice to suppliers of information
175.9(17A,22)	Disclosures without the consent of the subject
175.10(17A,22)	Routine use
175.11(17A,22)	Consensual disclosure of confidential records
175.12(17A,22)	Release to subject
175.13(17A,22)	Availability of records
175.14(17A,22)	Personally identifiable information
175.15(17A,22)	Other groups of records
175.16(17A,22)	Data processing systems
175.17(17A,22)	Applicability

CHAPTER 176
CRITERIA FOR AWARDS OR GRANTS

176.1(135,17A)	Purpose
176.2(135,17A)	Definitions
176.3(135,17A)	Exceptions
176.4(135,17A)	Requirements
176.5(135,17A)	Review process (competitive applications only)
176.6	Reserved
176.7(135,17A)	Public notice of available funds
176.8(135,17A)	Appeals

CHAPTER 177
HEALTH DATA

177.1(76GA,ch1212)	Purpose
177.2(76GA,ch1212)	Definitions
177.3(76GA,ch1212)	Description of data to be submitted
177.4(76GA,ch1212)	Department studies
177.5(76GA,ch1212)	Fees
177.6(76GA,ch1212)	Patient confidentiality
177.7(76GA,ch1212)	Department contracting
177.8(76GA,ch1212)	Address and specification for data submissions

CHAPTER 178
VARIANCES AND WAIVERS OF PUBLIC HEALTH
ADMINISTRATIVE RULES

178.1(17A,135)	Waivers
178.2(17A,135)	Sample petition for waiver

CHAPTERS 179 to 185
Reserved

CHAPTER 186
GOVERNMENTAL PUBLIC HEALTH ADVISORY BODIES

186.1(135A)	Purpose
186.2(135A)	Definitions
186.3(135A)	Roles and responsibilities of advisory bodies
186.4(135A)	Officers

186.5(135A)	Members of advisory bodies
186.6(135A)	Meetings
186.7(135A)	Conflict of interest
186.8(135A)	Subcommittees

CHAPTERS 187 to 190
Reserved

CHAPTER 191
ADVISORY BODIES OF THE DEPARTMENT

191.1(135)	Definitions
191.2(135)	Purpose
191.3(135)	Appointment
191.4(135)	Officers
191.5(135)	Meetings
191.6(135)	Subcommittees
191.7(135)	Expenses of advisory body members
191.8(135)	Gender balance

CHAPTER 192
CHILD SUPPORT NONCOMPLIANCE

192.1(252J)	Definitions
192.2(252J)	Issuance or renewal of a license—denial
192.3(252J)	Suspension or revocation of a license
192.4(17A,22,252J)	Sharing of information

CHAPTER 193
IMPAIRED PRACTITIONER REVIEW COMMITTEE

193.1(272C)	Definitions
193.2(272C)	Purpose
193.3(272C)	Composition of the committee
193.4(272C)	Eligibility
193.5(272C)	Terms of participation in the impaired practitioner recovery program
193.6(272C)	Limitations
193.7(272C)	Confidentiality

CHAPTER 194
NONPAYMENT OF STATE DEBT

194.1(272D)	Definitions
194.2(272D)	Issuance or renewal of a license—denial
194.3(272D)	Suspension or revocation of a license
194.4(272D)	Sharing of information

CHAPTER 195
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT
FOR PAYMENT OF OBLIGATION

195.1(261)	General definitions
195.2(261)	Issuance or renewal of a license—denial
195.3(261)	Suspension or revocation of a license
195.4(17A,22,261)	Sharing of information

CHAPTERS 196 to 200
Reserved

CHAPTER 201
ORGANIZED DELIVERY SYSTEMS

LICENSURE AND REGULATION

- 201.1(135,75GA,ch158) Purpose and scope
- 201.2(135,75GA,ch158) Definitions
- 201.3(135,75GA,ch158) Application
- 201.4(135,75GA,ch158) Governing body
- 201.5(135,75GA,ch158) Service area/geographic access
- 201.6(135,75GA,ch158,78GA,ch41) Provider network and contracts; treatment and services
- 201.7(135,75GA,ch158) Complaints
- 201.8(135,75GA,ch158) Accountability
- 201.9(135,75GA,ch158) Reporting
- 201.10(135,75GA,ch158) Evaluation
- 201.11(135,75GA,ch158) Annual report
- 201.12(135,75GA,ch158) Finance and solvency
- 201.13(135,75GA,ch158) Investment
- 201.14(135,75GA,ch158) Rating practices
- 201.15(135,75GA,ch158) Name
- 201.16(135,75GA,ch158) Change in organizational documents or control
- 201.17(135,75GA,ch158) Appeal
- 201.18(135,78GA,ch41) External review
- 201.19 Reserved

ANTITRUST

- 201.20(135,75GA,ch158) Purpose
- 201.21(135,75GA,ch158) Definitions
- 201.22(135,75GA,ch158) Scope
- 201.23(135,75GA,ch158) Application
- 201.24(135,75GA,ch158) Notice and comment
- 201.25(135,75GA,ch158) Procedure for review of applications
- 201.26(135,75GA,ch158) Criteria for decision
- 201.27(135,75GA,ch158) Decision
- 201.28(135,75GA,ch158) Appeal
- 201.29(135,75GA,ch158) Supervision after approval
- 201.30(135,75GA,ch158) Revocation

CHAPTER 202
CERTIFICATE OF NEED PROGRAM

- 202.1(135) Definitions
- 202.2(135) Letter of intent
- 202.3(135) Preliminary review
- 202.4(135) Submission of application
- 202.5(135) Organizational procedures
- 202.6(135) Public hearing on application
- 202.7(135) Summary review
- 202.8(135) Extension of review time
- 202.9(135) Rehearing of certificate of need decision
- 202.10(135) Status reports to affected persons
- 202.11(135) Finality
- 202.12(135) Project progress reports
- 202.13(135) Request for extension of certificate

- 202.14(135) Application changes after approval
- 202.15(135) Sanctions

CHAPTER 203

STANDARDS FOR CERTIFICATE OF NEED REVIEW

- 203.1(135) Acute care bed need
- 203.2(135) Cardiac catheterization and cardiovascular surgery standards
- 203.3(135) Radiation therapy or radiotherapy standards
- 203.4(135) Computerized tomography standards
- 203.5(135) Long-term care
- 203.6(135) Bed need formula for mentally retarded
- 203.7(135) End-stage renal disease standards
- 203.8(135) Financial and economic feasibility
- 203.9(135) Obstetrical services and neonatal intensive care unit standards
- 203.10(135) Designated pediatric units standards
- 203.11(135) Designated inpatient substance abuse treatment unit standards
- 203.12(135) Magnetic resonance imaging services standards
- 203.13(135) Positron emission tomography services standards

CHAPTER 204

UNIFORM REPORTING REQUIREMENTS

- 204.1(135) Reporting requirements
- 204.2(135) Initial reporting period

CHAPTER 205

Reserved

CHAPTER 206

IOWA HEALTH INFORMATION NETWORK

- 206.1(135) Scope and applicability
- 206.2(135) Definitions
- 206.3(135) Policy development and governance
- 206.4(135) Monitoring and audit
- 206.5(135) Consumer participation in the Iowa health information network
- 206.6(135) Security incidents, breaches
- 206.7(135) Health information audit

CHAPTER 7
IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY
OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF
HIGHER EDUCATION

[Prior to 7/29/87, Health Department[470]]

641—7.1(139A) Definitions.

“Admitting official” means the superintendent of schools or the superintendent’s designated representative if a public school; if a nonpublic school or licensed child care center, the governing official of the school or child care center.

“Advanced registered nurse practitioner” or *“ARNP”* means an advanced registered nurse practitioner as defined in 655—7.1(152).

“Applicant” means any person seeking enrollment in a licensed child care center or elementary or secondary school.

“Certified medical assistant” means a person who is certified to practice as a certified medical assistant following completion of a postsecondary medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools and successful completion of the certification examination and who is directed by a supervising physician, physician assistant, or nurse practitioner.

“Competent private instruction” means private instruction as defined by the department of education pursuant to Iowa Code section 299A.1.

“Department” means the Iowa department of public health.

“Electronic signature” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

“Elementary school” means kindergarten if provided, and grades one through eight or grades one through six when grades seven and eight are included in a secondary school.

“Enrolled user” means a user of the registry who has completed an enrollment form that specifies the conditions under which the registry can be accessed and who has been issued an identification code and password by the department.

“Health screening” means a vision screen or dental screen.

“Immunization registry” or *“registry”* means the database and file server maintained by the department as well as the software application that allows enrolled users to exchange immunization or health screening records.

“Institution of higher education” means a postsecondary school.

“Licensed child care center” means a facility or program licensed by the Iowa department of human services to provide child care for seven or more children or a prekindergarten or preschool, regardless of the source of funding, operated by a local school district, an accredited nonpublic school, an area education agency, or a college or university.

“Nurse” means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

“On-campus residence hall or dormitory” means campus housing for students that is owned or leased by the institution of higher education and located on a recognized campus site.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148.

“Physician assistant” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“Postsecondary school” means a postsecondary institution under the control of the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9, subsection 1.

“Postsecondary student” means a person who has officially registered with a postsecondary school, as determined by the school, and who physically attends class on the school’s campus. For purposes of these rules, “postsecondary student” does not include a person who is exclusively registered in a correspondence course or continuing education class or who attends class exclusively by means of the

Internet or the Iowa communications network or through other means which do not require the person's physical presence on the school's campus.

"Provisional enrollment" means enrollment for a period of time not to exceed the limit specified in subrule 7.7(2) to allow the applicant to meet the requirements of these rules. A provisionally enrolled applicant is entitled access to all the benefits, activities, and opportunities of the school or licensed child care center. Provisional enrollment shall not deny the school funding for the applicant.

"Screening provider" means an ophthalmologist, optometrist, pediatrician, family practice physician, free clinic, child care center, local public health department, public or accredited nonpublic school, community-based organization, advanced registered nurse practitioner (ARNP), physician assistant, dentist or dental hygienist.

"Secondary school" means (a) a junior high school comprising grades 7, 8 and 9, and a senior high school; (b) a combined junior-senior high school comprising grades 7 through 12; (c) a junior high school comprising grades 7 and 8 and a high school comprising grades 9 through 12; (d) a high school comprising grades 9 through 12.

"Signature" means an original signature or the authorized use of a stamped signature or electronic signature.

"Student" means an individual who is enrolled in a licensed child care center, elementary school or secondary school.

[ARC 0481C, IAB 12/12/12, effective 1/16/13; ARC 1477C, IAB 6/11/14, effective 7/16/14]

641—7.2(139A) Persons included. The immunization requirements specified elsewhere in these rules apply to all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa including those who are provided competent private instruction.

641—7.3(139A) Persons excluded. Exclusions to these rules are permitted on an individual basis for medical and religious reasons. Applicants approved for medical or religious exemptions shall submit to the admitting official a valid Iowa department of public health certificate of immunization exemption.

7.3(1) To be valid, a certificate of immunization exemption for medical reasons shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) exempted, and an expiration date (if applicable) and shall bear the signature of a physician, nurse practitioner, or physician assistant. A medical exemption may be granted to an applicant when, in the opinion of a physician, nurse practitioner, or physician assistant:

a. The required immunizations would be injurious to the health and well-being of the applicant or any member of the applicant's family or household. In this circumstance, a medical exemption may apply to a specific vaccine(s) or all required vaccines. If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption; or

b. Administration of the required vaccine would violate minimum interval spacing. In this circumstance, an exemption shall apply only to an applicant who has not received prior doses of the exempted vaccine. An expiration date, not to exceed 60 calendar days, and the name of the vaccine exempted shall be recorded on the certificate of exemption.

7.3(2) A religious exemption may be granted to an applicant if immunization conflicts with a genuine and sincere religious belief.

a. To be valid, a certificate of immunization exemption for religious reasons shall contain, at a minimum, the applicant's last name, first name, and date of birth and shall bear the signature of the applicant or, if the applicant is a minor, of the applicant's parent or guardian and shall attest that immunization conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to immunizations.

b. The certificate of immunization exemption for religious reasons is valid only when notarized.

7.3(3) Medical and religious exemptions under this rule do not apply in times of emergency or epidemic as determined by the state board of health and declared by the director of public health.

641—7.4(139A) Required immunizations.

7.4(1) Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements below:

IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the "Total Doses Required" column.

Institution	Age	Vaccine	Total Doses Required
Licensed Child Care Center	Less than 4 months of age	This is not a recommended administration schedule, but contains the minimum requirements for participation in licensed child care. Routine vaccination begins at 2 months of age.	
	4 months through 5 months of age	Diphtheria/Tetanus/Pertussis	1 dose
		Polio	1 dose
		haemophilus influenzae type B	1 dose
		Pneumococcal	1 dose
	6 months through 11 months of age	Diphtheria/Tetanus/Pertussis	2 doses
		Polio	2 doses
		haemophilus influenzae type B	2 doses
		Pneumococcal	2 doses
	12 months through 18 months of age	Diphtheria/Tetanus/Pertussis	3 doses
		Polio	2 doses
		haemophilus influenzae type B	2 doses; or 1 dose received when the applicant is 15 months of age or older.
		Pneumococcal	3 doses if the applicant received 1 or 2 doses before 12 months of age; or 2 doses if the applicant has not received any previous doses or has received 1 dose on or after 12 months of age.
	19 months through 23 months of age	Diphtheria/Tetanus/Pertussis	4 doses
		Polio	3 doses
haemophilus influenzae type B		3 doses, with the final dose in the series received on or after 12 months of age, or 1 dose received when the applicant is 15 months of age or older.	
Pneumococcal		4 doses; or 3 doses if the applicant received 1 or 2 doses before 12 months of age; or 2 doses if the applicant has not received any previous doses or has received 1 dose on or after 12 months of age.	
Measles/Rubella ¹		1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.	
24 months and older	Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.	
	Diphtheria/Tetanus/Pertussis	4 doses	
	Polio	3 doses	
	haemophilus influenzae type B	3 doses, with the final dose in the series received on or after 12 months of age; or 1 dose received when the applicant is 15 months of age or older. Hib vaccine is not indicated for persons 60 months of age or older.	
	Pneumococcal	4 doses if the applicant received 3 doses before 12 months of age; or 3 doses if the applicant received 2 doses before 12 months of age; or 2 doses if the applicant received 1 dose before 12 months of age or received 1 dose between 12 and 23 months of age; or 1 dose if no doses had been received prior to 24 months of age. Pneumococcal vaccine is not indicated for persons 60 months of age or older.	
Elementary or Secondary School (K-12)	4 years of age and older	Measles/Rubella ¹	1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.
		Diphtheria/Tetanus/Pertussis ^{4, 5}	3 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or before September 15, 2000 ² ; or 4 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born after September 15, 2000, but before September 15, 2003 ² ; or 5 doses with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or after September 15, 2003 ^{2, 3} ; and 1 time dose of tetanus/ diphtheria/acellular pertussis-containing vaccine (Tdap) for applicants in grades 7 and above, if born on or after September 15, 2000; regardless of the interval since the last tetanus/diphtheria containing vaccine.
		Polio ⁷	3 doses, with at least 1 dose received on or after 4 years of age if the applicant was born on or before September 15, 2003; or 4 doses, with at least 1 dose received on or after 4 years of age if the applicant was born after September 15, 2003. ⁶
		Hepatitis B	2 doses of hepatitis B-containing vaccine; the first dose shall have been received on or after 12 months of age; the second dose shall have been received no less than 28 days after the first dose; or the applicant demonstrates a positive antibody test for hepatitis B from a U.S. laboratory.

¹ Mumps vaccine may be included in measles/rubella-containing vaccine.

² DTaP is not indicated for persons 7 years of age or older, therefore, a tetanus-and diphtheria-containing vaccine should be used.

³ The 5th dose of DTaP is not necessary if the 4th dose was administered on or after 4 years of age.

⁴ Applicants 7 through 16 years of age who received their 1st dose of diphtheria/tetanus/pertussis-containing vaccine before 12 months of age should receive a total of 4 doses, with one of those doses administered on or after 4 years of age.

⁵ Applicants 7 through 18 years of age who received their 1st dose of diphtheria/tetanus/pertussis-containing vaccine at 12 months of age or older should receive a total of 3 doses, with one of those doses administered on or after 4 years of age.

⁶ If an applicant received an all-inactivated poliovirus (IPV) or all-oral poliovirus (OPV) series, a 4th dose is not necessary if the 3rd dose was administered on or after 4 years of age.

⁷ If both OPV and IPV were administered as part of the series, a total of 4 doses are required, regardless of the applicant's current age.

⁸ Administer 2 doses of varicella vaccine, at least 3 months apart, to applicants less than 13 years of age. Do not repeat the 2nd dose if administered 28 days or greater from the 1st dose. Administer 2 doses of varicella vaccine to applicants 13 years of age or older at least 4 weeks apart. The minimum interval between the 1st and 2nd dose of varicella for an applicant 13 years of age or older is 28 days.

7.4(2) Vaccine doses administered less than or equal to 4 days before the minimum interval or age shall be counted as valid. Doses administered greater than or equal to 5 days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as appropriate.

7.4(3) For vaccine administration, the minimum age and intervals recommended by the advisory committee on immunization practices shall be followed.

[**ARC 8377B**, IAB 12/16/09, effective 11/18/09; **ARC 8658B**, IAB 4/7/10, effective 5/12/10; **ARC 0481C**, IAB 12/12/12, effective 1/16/13; **ARC 0586C**, IAB 2/6/13, effective 1/16/13]

641—7.5(139A) Required education. Each institution of higher education that has an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to each postsecondary student enrolled in the institution of higher education. Meningococcal disease information shall be contained on student health forms. For purposes of this rule, student health form(s) means a document(s) prepared by an institution of higher education that contains, at a minimum, information on meningococcal disease, vaccination information and any recommendations issued by the national Centers for Disease Control and Prevention regarding meningococcal disease. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received vaccination against meningococcal disease, including, at a minimum, the date of vaccination. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received information on meningococcal disease and benefits of vaccine. If a traditional student health form is not utilized by the institution of higher education, any document(s) containing the above information is acceptable.

641—7.6(139A) Proof of immunization.

7.6(1) A valid Iowa department of public health certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable. The judgment of the adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or on that person's personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall include the vaccine(s) administered and the date given. Persons validating the certificate of immunization are not held responsible for the accuracy of the information used to validate the certificate of immunization if the information is from sources other than their own records or personal knowledge.

7.6(2) Persons wishing to enroll who do not have a valid Iowa department of public health certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

641—7.7(139A) Provisional enrollment.

7.7(1) A valid Iowa department of public health provisional enrollment certificate shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. Applicants who have begun but not completed the required immunizations may be granted provisional enrollment. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by

the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, the remaining vaccine(s) required, the reason that the applicant qualifies for provisional enrollment, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. Persons validating the provisional certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge. Persons signing the provisional certificate of immunization shall certify that they have informed the applicant or, if the applicant is a minor, the applicant's parent or guardian of the provisional enrollment requirements.

a. Any applicant seeking provisional enrollment who does not have a valid Iowa department of public health provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

b. Reserved.

7.7(2) The amount of time allowed for provisional enrollment shall be as soon as medically feasible but shall not exceed 60 calendar days. The period of provisional enrollment shall begin on the date the provisional certificate is signed. The person signing the provisional certificate shall assign an expiration date to the certificate and shall indicate the remaining immunizations required to qualify for a certificate of immunization.

7.7(3) The applicant or parent or guardian shall ensure that the applicant receive the necessary immunizations during the provisional enrollment period and shall submit a certificate of immunization to the admitting official by the end of the provisional enrollment period.

7.7(4) Rescinded IAB 12/3/08, effective 1/7/09.

7.7(5) If at the end of the provisional enrollment period the applicant or parent or guardian has not submitted a certificate of immunization, the admitting official shall immediately exclude the applicant from the benefits, activities, and opportunities of the school or licensed child care center until the applicant or parent or guardian submits a valid certificate of immunization.

7.7(6) If at the end of the provisional enrollment period the applicant has not completed the required immunizations due to minimum interval requirements, a new Iowa department of public health provisional certificate of immunization shall be submitted to the admitting official. The admitting official must maintain all issued certificates of provisional immunization with the original provisional certificate until the applicant submits a certificate of immunization.

[ARC 0481C, IAB 12/12/12, effective 1/16/13]

641—7.8(139A) Records and reporting.

7.8(1) It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid Iowa department of public health certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file for each student.

a. The admitting official shall keep the certificates on file in the school or licensed child care center in which the student is enrolled and assist the student or parent or guardian in the transfer of the certificate to another school or licensed child care center upon the transfer of the student to another school or licensed child care center.

b. Unless otherwise requested by the applicant, or parent or guardian, the admitting official shall retain the Iowa department of public health certificate of immunization, or certificate of immunization exemption, or provisional certificate of immunization for three years commencing upon the transfer or graduation of the applicant or the school may choose to provide the permanent immunization record to the student at time of graduation. Included with the immunization record a letter should state that this is an important document that will be needed by the student for college or employment and should be permanently retained.

7.8(2) It shall be the duty of the local boards of health to audit the Iowa department of public health certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization in the schools within their jurisdiction to determine compliance with Iowa Code section

139A.8. The local boards of health shall furnish the Iowa department of public health within 60 days of the first official day of school a report of the audit. The report shall be submitted for each school within the local board of health's jurisdiction and shall include the enrollment by grade, and the number of Iowa department of public health certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization by grade.

7.8(3) The local board of health and the Iowa department of public health shall have the right to have access to the Iowa department of public health certificates of immunization, certificates of immunization exemption, and the provisional certificates of immunization of children enrolled in elementary and secondary schools and licensed child care centers within the constraints of the privacy rights of parents and students.

7.8(4) The admitting official of an institution of higher education shall provide to the department of public health by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall be forwarded to the department within 30 days. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

- a. Enrolled in the institution of higher education; and
- b. Been provided information on meningococcal disease; and
- c. Been immunized with meningococcal vaccine.

641—7.9(139A) Providing immunization services. It shall be the duty of the local boards of health to provide immunization services where no local provision exists for the services.

641—7.10(139A) Compliance. Applicants not presenting proper evidence of immunization, or exemption, are not entitled to enrollment in a licensed child care center or elementary or secondary school under the provisions of Iowa Code section 139A.8. It shall be the duty of the admitting official to deny enrollment to any applicant who does not submit proper evidence of immunization according to rule 7.6(139A) and to exclude a provisionally enrolled applicant in accordance with rule 7.7(139A).

641—7.11(22) Statewide registry.

7.11(1) Statewide registry. The department shall maintain a statewide immunization and health screening registry. Enrolled users are responsible for purchasing and maintaining all computer hardware related to use of the registry and for providing an Internet connection to transfer information between the user's computer and the registry.

7.11(2) Purpose and permitted uses of registry.

a. The registry shall contain immunization and health screening information, including identifying and demographic data, to allow enrolled users to maintain and access a database of immunization and health screening histories for purposes of ensuring that patients are fully immunized and screened.

b. The registry may be used to track inventory or utilization of pharmaceutical agents identified by the department to prepare for or respond to an emergency event.

c. Enrolled users shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purpose other than those expressly provided in this rule.

d. The registry shall contain health screening data, including screening results and follow-up information.

7.11(3) Release of information to the registry. Enrolled users shall provide immunization and health screening information, including identifying and demographic data, to the registry. Information provided may include, but is not limited to, the following:

- a. Name of patient;
- b. Gender of patient;
- c. Date of birth;
- d. Race;
- e. Ethnicity;

- f.* Birth state and birth country;
- g.* Address;
- h.* Parents' names;
- i.* Mother's maiden name;
- j.* Type of vaccination administered;
- k.* Dose or series number of vaccine;
- l.* Date vaccination was administered;
- m.* Lot number;
- n.* Date of health screening;
- o.* Health screening results;
- p.* Source of health screening;
- q.* Health screening follow-up information;
- r.* Patient comments;
- s.* Provider name, license, and business address; and
- t.* Patient history, including previously unreported doses.

7.11(4) Confidentiality of registry information. Immunization and health screening information, including identifying and demographic data maintained on the registry, is confidential and may not be disclosed except under the following limited circumstances:

- a.* The department may release information from the registry to the following:
 - (1) The person or the parent or legal guardian of the person immunized or screened.
 - (2) Enrolled users of the registry who have completed an enrollment form that specifies the conditions under which the registry can be accessed and who have been issued an organization code and user name by the department;
 - (3) Persons or entities requesting immunization or health screening data in an aggregate form that does not identify an individual either directly or indirectly.
 - (4) Agencies that complete an agreement with the department which specifies conditions for access to registry data and how that data will be used. Agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.
 - (5) A representative of a state or federal agency, or entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.
 - (6) The admitting official of a licensed child care center, elementary school, secondary school, or postsecondary school; or medical or health care providers providing continuity of care.
 - (7) Enrolled users from other states or jurisdictions who have signed and completed enrollment in the state's or jurisdiction's immunization registry.
- b.* Enrolled users shall not release data obtained from the registry except to the person or the parent or legal guardian of the person immunized or screened, admitting officials of licensed child care centers and schools, medical or health care providers providing continuity of care, and other enrolled users of the registry.

[ARC 8377B, IAB 12/16/09, effective 11/18/09; ARC 8658B, IAB 4/7/10, effective 5/12/10; ARC 0481C, IAB 12/12/12, effective 1/16/13; ARC 1477C, IAB 6/11/14, effective 7/16/14]

641—7.12(22) Release of immunization and health screening information.

7.12(1) *Between a physician, physician assistant, nurse, certified medical assistant, or screening provider and the elementary, secondary, or postsecondary school or licensed child care center that the student attends.* A physician, a physician assistant, a nurse, a certified medical assistant, or a screening provider shall disclose a student's or patient's immunization or health screening information, including

the name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, health screening results and clinic source and location, to an elementary, secondary, or postsecondary school or a licensed child care center upon written or verbal request from the elementary, secondary, or postsecondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary, secondary, or postsecondary school or licensed child care center that the student attends.

7.12(2) *Among physicians, physician assistants, nurses, certified medical assistants, or screening providers.* Immunization or health screening information, including the student's or patient's last name, first name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, health screening results and clinic source and location, shall be provided by a physician, physician assistant, nurse, certified medical assistant, or screening provider to another health care provider without written or verbal permission from the student, parent, guardian or patient.

7.12(3) *Among an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.* An elementary school, secondary school, postsecondary school, and licensed child care center shall disclose a student's immunization or health screening information, including the student's last name, first name, date of birth, and demographic information, the month, day, and year of vaccine(s) administered, health screening results and clinic source and location, to another elementary school, secondary school, postsecondary school, and licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's parent or guardian, is not required to release this information to an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.

7.12(4) *Among the department and a physician, physician assistant, nurse, certified medical assistant, screening provider, elementary school, secondary school, postsecondary school, and licensed child care center.* A student's or patient's immunization or health screening information, including name, date of birth, grade, and demographic information; vaccine(s) administered and the month, day and year of administration; and health screening results, clinic source, and location, all in a format specified by the department, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, screening providers, elementary schools, secondary schools, postsecondary schools, and licensed child care centers. Written or verbal permission from a student, patient, parent, or guardian is not required to release this information.

[ARC 0481C, IAB 12/12/12, effective 1/16/13; ARC 1477C, IAB 6/11/14, effective 7/16/14]

These rules are intended to implement Iowa Code sections 139A.8 and 22.7(2).

[Filed 11/10/77, Notice 10/5/77—published 11/30/77, effective 1/4/78]

[Filed emergency 12/23/77—published 1/11/78, effective 12/23/77]

[Filed emergency 9/18/78 after Notice 5/31/78—published 10/4/78, effective 9/18/78]

[Filed emergency 8/7/80 after Notice 6/11/80—published 9/3/80, effective 8/8/80]

[Filed emergency 1/15/81—published 2/4/81, effective 1/15/81]

[Filed 9/23/83, Notice 7/6/83—published 10/12/83, effective 11/16/83]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed 1/11/89, Notice 10/19/88—published 2/8/89, effective 3/17/89]

[Filed 5/10/91, Notice 4/3/91—published 5/29/91, effective 7/3/91]

[Filed 5/16/94, Notice 3/2/94—published 6/8/94, effective 7/13/94]

[Filed 5/13/96, Notice 3/27/96—published 6/5/96, effective 7/10/96]

[Filed 11/10/98, Notice 9/23/98—published 12/2/98, effective 1/6/99]

[Filed emergency 7/9/03—published 8/6/03, effective 7/9/03]

[Filed 9/12/03, Notice 8/6/03—published 10/1/03, effective 11/5/03][◇]

[Filed 7/15/05, Notice 5/25/05—published 8/3/05, effective 9/7/05]

[Filed emergency 1/11/06—published 2/1/06, effective 1/11/06]

[Filed 11/12/08, Notice 7/16/08—published 12/3/08, effective 1/7/09]

[Filed Emergency ARC 8377B, IAB 12/16/09, effective 11/18/09]

[Filed ARC 8658B (Notice ARC 8399B, IAB 12/16/09; Amended Notice ARC 8491B, IAB 1/27/10),

IAB 4/7/10, effective 5/12/10]

[Filed ARC 0481C (Notice ARC 0370C, IAB 10/3/12), IAB 12/12/12, effective 1/16/13]
[Filed Emergency ARC 0586C, IAB 2/6/13, effective 1/16/13]
[Filed ARC 1477C (Notice ARC 1229C, IAB 12/11/13), IAB 6/11/14, effective 7/16/14]

◊ Two or more ARCs

CHAPTER 37
PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

GENERAL PROVISIONS

641—37.1(136C) Purpose and scope.

37.1(1) This chapter has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this chapter. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this chapter authorizes possession of licensed material.

37.1(2) The divisions in this chapter entitled “Background Investigations and Access Control Program” and “Physical Protection Requirements During Use,” including rules 641—37.21(136C) to 641—37.57(136C), apply to any person who, under the regulations in this chapter, possesses or uses at any site an aggregated category 1 or category 2 quantity of radioactive material.

37.1(3) The division in this chapter entitled “Physical Protection in Transit,” including rules 641—37.71(136C) to 641—37.81(136C), applies to any person who, under the rules of this chapter:

- a. Transports or delivers to a carrier for transport in a single shipment a category 1 or category 2 quantity of radioactive material; or
- b. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

37.1(4) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of July 16, 2014.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.2 to 37.4 Reserved.

641—37.5(136C) Definitions.

37.5(1) For the purposes of this chapter, these terms have the definitions set forth below.

“*Access control*” means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“*Act*” means the Atomic Energy Act of 1954 (68 Stat. 919), as amended through July 16, 2014.

“*Agency*” means the Iowa department of public health.

“*Aggregated*” means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“*Agreement state*” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under Subsection 274b. of the Act. “*Non-agreement state*” means any other state.

“*Approved individual*” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with rules 641—37.21(136C) through 641—37.33(136C) and who has completed the training required by 37.43(3).

“*Background investigation*” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“*Becquerel (Bq)*” means one disintegration per second.

“*Byproduct material*” means:

1. Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;
2. The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from

uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

3. Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or any material that:

- Has been made radioactive by use of a particle accelerator; and
- Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

4. Any discrete source of naturally occurring radioactive material, other than source material, that:

- The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

- Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“*Carrier*” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“*Category 1 quantity of radioactive material*” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“*Category 2 quantity of radioactive material*” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“*Commission*” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“*Curie*” means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second.

“*Diversions*” means the unauthorized movement of radioactive material subject to this chapter to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

“*Escorted access*” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“*Fingerprint orders*” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by agreement states that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“*Government agency*” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

“*License*” means a license issued by the agency in accordance with the rules adopted by the agency.

“*License-issuing authority*” means the licensing agency that issued the license, i.e., the agency, the U.S. Nuclear Regulatory Commission or an agreement state.

“*Local law enforcement agency (LLEA)*” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“*Lost or missing licensed material*” means licensed material whose location is unknown. Lost or missing licensed material includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“*Mobile device*” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

“*Movement control center*” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“*No-later-than arrival time*” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than six hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“*Person*” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but shall not include federal government agencies.

“*Reviewing official*” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“*Sabotage*” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“*Safe haven*” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“*Security zone*” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“*State*” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“*Telemetric position monitoring system*” means a data transfer system that captures information by instrumentation or measuring devices, or both, about the location and status of a transport vehicle or package between the departure and destination locations.

“*Trustworthiness and reliability*” are characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“*Unescorted access*” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“*United States,*” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.6 Reserved.

641—37.7(136C) Communications. All communications and reports concerning the rules in this chapter should be addressed to the agency at its office located at the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa 50319.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.8 to 37.10 Reserved.

641—37.11(136C) Specific exemptions.

37.11(1) The agency may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this chapter as it determines are authorized by law and will not result in undue hazard to public health and safety or property and are otherwise in the public interest. Application for exemption should be made in accordance with 641—Chapter 178.

37.11(2) A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of this chapter. Except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this chapter. The licensee shall implement the following requirements to secure the radioactive waste:

- a. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
- b. Use a locked door or gate with monitored alarm at the access control point;
- c. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
- d. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.12 to 37.20 Reserved.

BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM

641—37.21(136C) Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.

37.21(1) Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this chapter.

37.21(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this chapter upon application for amendment of its license, and a licensee aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold, shall implement the requirements of this chapter and be inspected by the agency, as appropriate, before a new license or license amendment will be issued.

37.21(3) The licensee's access authorization program must ensure that the individuals specified in 37.21(4) are trustworthy and reliable.

37.21(4) Applicability.

- a. Licensees shall subject the following individuals to an access authorization program:
 - (1) Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - (2) Reviewing officials.

b. Licensees need not subject the categories of individuals listed in rule 641—37.29(136C) to the investigation elements of the access authorization program.

c. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.

d. Licensees may include individuals needing access to safeguards information-modified handling under 10 CFR Part 73 in the access authorization program under these rules.
[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.22 Reserved.

641—37.23(136C) Access authorization program requirements.

37.23(1) Granting unescorted access authorization.

a. Licensees shall implement the requirements of these rules for granting initial or reinstated unescorted access authorization.

b. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by 37.43(3) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

37.23(2) Reviewing officials.

a. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.

b. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. Every ten years, the licensee shall recertify that the reviewing official is deemed trustworthy and reliable in accordance with 37.25(3).

c. Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

d. Reviewing officials cannot approve other individuals to act as reviewing officials.

e. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(1) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(2) The individual is subject to a category listed in rule 641—37.29(136C).

37.23(3) Informed consent.

a. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of 37.25(2). A signed consent must be obtained prior to any reinvestigation.

b. The subject individual may withdraw the individual's consent at any time. Licensees shall inform the individual that:

(1) If an individual withdraws consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew consent; and

(2) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

37.23(4) *Personal history disclosure.* Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by these rules is sufficient cause for denial or termination of unescorted access authorization.

37.23(5) *Determination basis.*

a. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of these rules.

b. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of these rules and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

c. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

d. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

e. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

37.23(6) *Procedures.* Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

37.23(7) *Right to correct and complete information.*

a. Prior to any final adverse determination, licensees shall provide each individual subject to these rules with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of one year from the date of the notification.

b. If, after reviewing the individual's criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306, as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least ten days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record is made available for the individual's review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

37.23(8) Records.

a. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

b. The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

c. The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.24 Reserved.

641—37.25(136C) Background investigations.

37.25(1) Initial investigation. Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the seven years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:

a. Fingerprinting and an FBI identification and criminal history records check in accordance with rule 641—37.27(136C);

b. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who the applicant claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with rule 641—37.31(136C). Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;

c. Employment history verification. Licensees shall complete employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application;

d. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;

e. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this rule must be limited to whether the individual has been and continues to be trustworthy and reliable;

f. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and

g. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after ten business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation and shall attempt to obtain the information from an alternate source.

37.25(2) Grandfathering.

a. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the fingerprint orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.

b. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk-significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

37.25(3) Reinvestigations. Licensees shall conduct a reinvestigation every ten years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with rule 641—37.27(136C). The reinvestigations must be completed within ten years of the date on which these elements were last completed.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.26 Reserved.

641—37.27(136C) Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.**37.27(1) General performance objective and requirements.**

a. Except for those individuals listed in rule 641—37.29(136C) and those individuals grandfathered under 37.25(2), each licensee subject to the provisions of these rules shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the Nuclear Regulatory Commission for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.

b. The licensee shall notify each affected individual that the individual's fingerprints will be used to secure a review of the individual's criminal history record, and shall inform the individual of the procedures for revising the record or adding explanations to the record.

c. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:

(1) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of the individual's unescorted access authorization; and

(2) The previous access was terminated under favorable conditions.

d. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under these rules, the fingerprint orders, or 10 CFR Part 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of 37.31(3).

e. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

37.27(2) Prohibitions.

a. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

- (1) An arrest more than one year old for which there is no information of the disposition of the case; or
- (2) An arrest that resulted in dismissal of the charge or an acquittal.

b. Licensees may not use information received from a criminal history records check obtained under these rules in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

37.27(3) Procedures for processing of fingerprint checks.

a. For the purpose of complying with these rules, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>.

b. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 1-301-492-3531.) Combined payment for multiple applications is acceptable. The Nuclear Regulatory Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site. (To find the current fee amount, go to the Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.)

c. The Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.28 Reserved.

641—37.29(136C) Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.

37.29(1) Fingerprinting, identification, and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

- a. An employee of the Nuclear Regulatory Commission or of the executive branch of the U.S. government who has undergone fingerprinting for a prior U.S. government criminal history records check;
- b. A member of Congress;
- c. An employee of a member of Congress or congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;
- d. The governor of a state or the governor's designated state employee representative;
- e. Federal, state, or local law enforcement personnel;

- f.* State radiation control program directors and state homeland security advisors or their designated state employee representatives;
- g.* Agreement state employees conducting security inspections on behalf of the NRC under an agreement executed under Section 274.i. of the Atomic Energy Act;
- h.* Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
- i.* Emergency response personnel who are responding to an emergency;
- j.* Commercial vehicle drivers for road shipments of category 2 quantities of radioactive material;
- k.* Package handlers at transportation facilities such as freight terminals and railroad yards;
- l.* Any individual who has an active federal security clearance, provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
- m.* Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

37.29(2) Fingerprinting, and the identification and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, are not required for an individual who has had a favorably adjudicated U.S. government criminal history records check within the last five years, under a comparable U.S. government program involving fingerprinting and an FBI identification and criminal history records check provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

- a.* National Agency Check;
- b.* Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;
- c.* Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;
- d.* Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;
- e.* Hazardous material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and
- f.* Customs and Border Protection's Free and Secure Trade (FAST) Program.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.30 Reserved.

641—37.31(136C) Protection of information.

37.31(1) Each licensee who obtains background information on an individual under these rules shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

37.31(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, the individual's representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information,

or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

37.31(3) The personal information obtained on an individual from a background investigation may be provided to another licensee:

a. Upon the individual's written request to the licensee holding the data to disseminate the information contained in the individual's file; and

b. If the recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

37.31(4) The licensee shall make background investigation records obtained under these rules available for examination by an authorized representative of the agency to determine compliance with the regulations and laws.

37.31(5) The licensee shall retain all fingerprint and criminal history records on an individual (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.32 Reserved.

641—37.33(136C) Access authorization program review.

37.33(1) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of these rules and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall, at 12-month intervals, review the access program content and implementation.

37.33(2) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

37.33(3) Review records must be maintained for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.34 to 37.40 Reserved.

PHYSICAL PROTECTION REQUIREMENTS DURING USE

641—37.41(136C) Security program.

37.41(1) Applicability.

a. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of rules 641—37.41(136C) to 641—37.57(136C).

b. An applicant for a new license and a licensee that would become newly subject to the requirements of this chapter upon application for amendment of its license shall implement the requirements of this chapter and be inspected by the agency, as appropriate, before a new license or license amendment will be issued.

c. Any licensee that has not previously implemented the security orders or been subject to the provisions of these rules shall provide written notification to the agency as specified in rule 641—37.3(136C) at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

37.41(2) General performance objective. Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

37.41(3) Program features. Each licensee's security program must include the program features, as appropriate, described in this chapter.
[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.42 Reserved.

641—37.43(136C) General security program requirements.

37.43(1) Security plan.

a. Each licensee identified in 37.41(1)“a” shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by these rules. The security plan must, at a minimum:

(1) Describe the measures and strategies used to implement the requirements of these rules; and
(2) Identify the security resources, equipment, and technology used to satisfy the requirements of these rules.

b. The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

c. A licensee shall revise its security plan as necessary to ensure the effective implementation of agency requirements. The licensee shall ensure that:

(1) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and
(2) The affected individuals are instructed on the revised plan before the changes are implemented.

d. The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

37.43(2) Implementing procedures.

a. The licensee shall develop and maintain written procedures that document how the requirements of these rules and the security plan will be met.

b. The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

c. The licensee shall retain a copy of the current procedure as a record for three years after the procedure is no longer needed. Superseded portions of the procedure must be retained for three years after the record is superseded.

37.43(3) Training.

a. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:

(1) The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
(2) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of agency requirements;
(3) The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and
(4) The appropriate response to security alarms.

b. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of

radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.

c. Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:

- (1) Review of the training requirements of rule 641—37.43(136C) and any changes made to the security program since the last training;
- (2) Reports on any relevant security issues, problems, and lessons learned;
- (3) Relevant results of agency inspections; and
- (4) Relevant results of the licensee's program review and testing and maintenance.

d. The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

37.43(4) Protection of information.

a. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

b. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

c. Before granting an individual access to the security plan or implementing procedures, licensees shall:

- (1) Evaluate an individual's need to know the security plan or implementing procedures; and
- (2) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in 37.25(1).

d. Licensees need not subject the following individuals to the background investigation elements for protection of information:

- (1) The categories of individuals listed in rule 641—37.29(136C); or
- (2) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in 37.25(1), has been provided by the security service provider.

e. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

f. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

g. When the security plan is not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.

h. The licensee shall retain as a record for three years after the document is no longer needed:

- (1) A copy of the information protection procedures; and
- (2) The list of individuals approved for access to the security plan or implementing procedures.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.44 Reserved.

641—37.45(136C) LLEA coordination.

37.45(1) A licensee subject to these rules shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:

a. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with these rules; and

b. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.

37.45(2) The licensee shall notify the agency within three business days if:

a. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or

b. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

37.45(3) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for three years.

37.45(4) The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.46 Reserved.

641—37.47(136C) Security zones.

37.47(1) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.

37.47(2) Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

37.47(3) Security zones must, at a minimum, allow unescorted access only to approved individuals through:

a. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or

b. Direct control of the security zone by approved individuals at all times; or

c. A combination of continuous physical barriers and direct control.

37.47(4) For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

37.47(5) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.48 Reserved.

641—37.49(136C) Monitoring, detection, and assessment.

37.49(1) *Monitoring and detection.*

a. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into their security zones. Licensees shall provide the means to maintain

continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

b. Monitoring and detection must be performed by:

(1) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or

(2) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or

(3) A monitored video surveillance system; or

(4) Direct visual surveillance by approved individuals located within the security zone; or

(5) Direct visual surveillance by a licensee-designated individual located outside the security zone.

c. A licensee subject to these rules shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

(1) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:

1. Electronic sensors linked to an alarm; or

2. Continuous monitored video surveillance; or

3. Direct visual surveillance.

(2) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

37.49(2) *Assessment.* Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

37.49(3) *Personnel communications and data transmission.* For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

a. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

b. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

37.49(4) *Response.* Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.50 Reserved.

641—37.51(136C) Maintenance and testing.

37.51(1) Each licensee subject to these rules shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this chapter must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing must be performed at least annually, not to exceed 12 months.

37.51(2) The licensee shall maintain records on the maintenance and testing activities for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.52 Reserved.

641—37.53(136C) Requirements for mobile devices. Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material must:

37.53(1) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

37.53(2) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.54 Reserved.

641—37.55(136C) Security program review.

37.55(1) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of these rules and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.

37.55(2) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

37.55(3) The licensee shall maintain the review documentation for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.56 Reserved.

641—37.57(136C) Reporting of events.

37.57(1) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays). In no case shall the notification to the agency be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

37.57(2) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays).

37.57(3) The initial telephonic notification required by 37.57(1) must be followed within a period of 30 days by a written report submitted to the agency. The report must include sufficient information for agency analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.58 to 37.70 Reserved.

PHYSICAL PROTECTION IN TRANSIT

641—37.71(136C) Additional requirements for transfer of category 1 and category 2 quantities of radioactive material. A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state shall meet the license verification provisions listed in this rule instead of those listed in 641—subrule 39.4(41):

37.71(1) Any licensee transferring category 1 quantities of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the agency, the NRC's license verification system or the license-issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license-issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

37.71(2) Any licensee transferring category 2 quantities of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the agency, the NRC's license verification system or the license-issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license-issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

37.71(3) In an emergency where the licensee cannot reach the agency, or the license-issuing authority and the license verification system are nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date and, for a category 1 shipment, the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by contacting the agency or by use of the NRC's license verification system or by contacting the license-issuing authority by the end of the next business day.

37.71(4) The transferor shall keep a copy of the verification documentation as a record for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.72 Reserved.

641—37.73(136C) Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit. The shipping licensee shall be responsible for meeting the requirements of this chapter unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this chapter.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.74 Reserved.

641—37.75(136C) Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.

37.75(1) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

- a. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
- b. Preplan and coordinate shipment information with the governor or the governor's designee of any state through which the shipment will pass to:
 - (1) Discuss the state's intention to provide law enforcement escorts; and
 - (2) Identify safe havens; and

c. Document the preplanning and coordination activities.

37.75(2) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

37.75(3) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

37.75(4) Each licensee who transports or plans to transport a shipment of a category 2 quantity of radioactive material and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to 37.75(2) shall promptly notify the receiving licensee of the new no-later-than arrival time.

37.75(5) The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.76 Reserved.

641—37.77(136C) Advance notification of shipment of category 1 quantities of radioactive material.

37.77(1) As specified in 37.77(1) "a" and "b," each licensee shall provide advance notification to the NRC and the governor of a state, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport, of the licensed material outside the confines of the licensee's facility or other place of use or storage.

a. *Procedures for submitting advance notification.*

(1) The notification must be made to the NRC and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's Web site at <http://nrc-stp.ornl.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 1-301-816-5151.

(2) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(3) A notification delivered by any means other than mail must reach the NRC at least four days before the transport of the shipment commences and must reach the office of the governor or the governor's designee at least four days before transport of a shipment within or through the state.

b. *Information to be furnished in advance notification of shipment.* Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

(2) The license numbers of the shipper and receiver;

(3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(4) The point of origin of the shipment and the estimated time and date that shipment will commence;

(5) The estimated time and date that the shipment is expected to enter each state along the route;

- (6) The estimated time and date of arrival of the shipment at the destination; and
- (7) A point of contact, with a telephone number, for current shipment information.

c. Revision notice.

(1) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the state or the governor's designee and to the NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(2) A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with 37.77(1) "b" and 37.77(1) "c"(1). The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of any such changes.

d. Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state or to the governor's designee previously notified and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled.

e. Records. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for three years.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.78 Reserved.

641—37.79(136C) Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.

37.79(1) Shipments by road.

a. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

(1) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, seven days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.

(2) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.

(3) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(4) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour-duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

(5) Develop written normal and contingency procedures to address:

1. Notifications to the communication center and law enforcement agencies;

2. Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

3. Loss of communications; and

4. Responses to an actual or attempted theft or diversion of a shipment.

(6) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

b. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance.

c. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(1) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, or both, the package tracking system must allow the shipper or transporter to identify when and where the package was last reported and when it should arrive at the next point of control.

(2) Use carriers that maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(3) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

37.79(2) Shipments by rail.

a. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

(1) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(2) Ensure that periodic reports to the communications center are made at preset intervals.

b. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(1) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, or both, the package tracking system must allow the shipper or transporter to identify when and where the package was last reported and when it should arrive at the next point of control.

(2) Use carriers that maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(3) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

37.79(3) Investigations. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.80 Reserved.

641—37.81(136C) Reporting of events.

37.81(1) The shipping licensee shall notify the appropriate LLEA and the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) within 1 hour of the shipping licensee's determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by 37.79(3), the shipping licensee will provide agreed-upon updates to the agency on the status of the investigation.

37.81(2) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) within 4 hours of the shipping licensee's determination that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing and the radioactive material has not been located and secured, the licensee shall immediately notify the agency.

37.81(3) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of category 1 radioactive material.

37.81(4) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.

37.81(5) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

37.81(6) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

37.81(7) The initial telephonic notification required by 37.81(1) through 37.81(4) must be followed within a period of 30 days by a written report submitted to the agency. A written report is not required for notifications on suspicious activities required by 37.81(3) and 37.81(4). The report must set forth the following information:

- a. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
- b. A description of the circumstances under which the loss or theft occurred;
- c. A statement of disposition, or probable disposition, of the licensed material involved;
- d. Actions that have been taken, or will be taken, to recover the material; and
- e. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

37.81(8) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information. [ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.82 to 37.100 Reserved.

RECORDS

641—37.101(136C) Form of records. Each record required by this chapter must be legible throughout the retention period specified by each agency rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record

may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.102 Reserved.

641—37.103(136C) Record retention. Licensees shall maintain the records that are required by this chapter for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records must be retained until the agency terminates the facility's license. All records related to this chapter may be destroyed upon agency termination of the facility license.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—37.104 Reserved.

641—37.105(136C) Inspections.

37.105(1) Each licensee shall afford to the agency at all reasonable times opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.

37.105(2) Each licensee shall make available to the agency for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

[ARC 1479C, IAB 6/11/14, effective 7/16/14]

CHAPTER 37—APPENDIX A

CATEGORY 1 AND CATEGORY 2 RADIOACTIVE MATERIALS

Table 1—Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides. The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this chapter.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides must be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this chapter apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations must be performed in metric values (i.e., TBq) and the numerator and denominator values must be in the same units.

R_1 = total activity for radionuclide 1

R_2 = total activity for radionuclide 2

R_N = total activity for radionuclide n

AR_1 = activity threshold for radionuclide 1

AR_2 = activity threshold for radionuclide 2

AR_N = activity threshold for radionuclide n

$$\sum_1^n \left[\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

These rules are intended to implement Iowa Code chapter 136C.

[Filed ARC 1479C (Notice ARC 1414C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 38
GENERAL PROVISIONS FOR RADIATION MACHINES
AND RADIOACTIVE MATERIALS

641—38.1(136C) Purpose and scope.

38.1(1) Except as otherwise specifically provided, these rules apply to all persons who receive, possess, use, transfer, own, or acquire any source of radiation; provided, however, that nothing in these rules shall apply to any person to the extent such person is subject to regulation by the U.S. Nuclear Regulatory Commission. Attention is directed to the fact that regulation by the state of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to 10 CFR Part 150 of the Commission's regulations.

38.1(2) All references to Code of Federal Regulations (CFR) in this chapter are those in effect as of September 15, 2010.

38.1(3) The provisions of Chapter 38 are in addition to, and not in substitution for, any other applicable portions of 641—Chapter 37 and Chapters 39 to 45.

[ARC 8982B, IAB 8/11/10, effective 9/15/10; ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—38.2(136C) Definitions. As used in these rules, these terms have the definitions set forth below and are adopted by reference and included herein for 641—Chapters 39 to 45.

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. It is determined as the quotient of dE by dM, where dE is the mean energy imparted by ionizing radiation to matter of mass dM. The SI unit of absorbed dose is joule per kilogram and the special name of the unit of absorbed dose is the gray (Gy). The units of absorbed dose are the gray (Gy) and the rad.

“Absorbed dose rate” means absorbed dose per unit time, for machines with timers, or dose monitor unit per unit time for linear accelerators.

“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator-produced material” means any material made radioactive by a particle accelerator.

“Act” means 1984 Iowa Acts, chapter 1286, relating to regulation of radiation machines and radioactive materials. (Iowa Code chapter 136C)

“Activity” means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).

“Adult” means an individual 18 years of age or older.

“Agency” means the Iowa department of public health.

“Agreement state” means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under Subsection 274b of the Atomic Energy Act of 1954 as amended (73 Stat. 689).

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of dusts, fumes, particles, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive material (composed wholly or partly of licensed material) exists in concentrations (1) in excess of the derived air concentrations (DACs) specified in Appendix A of 641—Chapter 40; or (2) to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“Air kerma (K)” means the kinetic energy released in air by ionizing radiation. Kerma is determined as the quotient of dE by dM, where dE is the sum of the initial kinetic energies of all the charged ionizing

particles liberated by uncharged ionizing particles in air of mass dM . The SI unit of air kerma is joule per kilogram and the special name for the unit of kerma is the gray (Gy).

“Air-purifying respirator” means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“Annually” means at least once every 365 days.

“As low as is reasonably achievable” (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Assembler” means any person engaged in the business of assembling, replacing, or installing one or more components into an X-ray system or subsystem. The term includes the owner of an X-ray system or the employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

“Assigned protection factor (APF)” means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

“Background radiation” means radiation from cosmic sources; naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. “Background radiation” does not include sources of radiation from radioactive materials regulated by the agency.

“Barrier” (see “Protective barrier”).

“Beam axis” means a line from the source through the centers of the X-ray fields.

“Beam-limiting device” means a field defining collimator, integral to the system, which provides a means to restrict the dimensions of the X-ray field or useful beam.

“Beam monitoring system” means a system designed and installed in the radiation head to detect and measure the radiation present in the useful beam.

“Becquerel” (Bq) means the SI unit of activity. One becquerel is equal to 1 disintegration or transformation per second (dps or tps).

“Bioassay” means the determination of kinds, quantities or concentrations and, in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Bone densitometry unit” means a medical device which uses electronically produced ionizing radiation to determine the density of bone structures of human patients.

“Brachytherapy” means a method of radiation therapy in which sealed sources are utilized to deliver a radiation dose at a distance of up to a few centimeters, by surface, intracavitary, intraluminal, or interstitial application.

“Brachytherapy source” means a radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

“By-product material” means:

1. Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

2. The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “by-product material” within this definition;

3. Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity or any material that:

- Has been made radioactive by use of a particle accelerator; and
- Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

4. Any discrete source of naturally occurring radioactive material, other than source material, that:

- The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat to the public health and safety or the common defense and security similar to the threat posed by a discrete source of radium-226; and

- Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“*Cabinet radiography*” means industrial radiography conducted in an enclosure or cabinet shielded so that radiation levels at every location on the exterior meet the limitations specified in 641—40.26(136C).

“*Calendar quarter*” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method of determining calendar quarters for purposes of these rules except at the beginning of a year.

“*Calibration*” means the determination of (1) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or (2) the strength of a source of radiation relative to a standard.

“*Carrier*” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“*CFR*” means Code of Federal Regulations.

“*Changeable filters*” means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical, or physical process.

“*Collective dose*” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“*Committed dose equivalent*” ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“*Committed effective dose equivalent*” ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \sum w_T H_{T,50}$).

“*Consignment*” means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

“*Consortium*” means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution, a federal facility or a medical facility.

“*Constraint*” or “*dose constraint*” means a value above which specified licensee actions are required.

“*Controlled area*” means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

“*Critical group*” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“*Curie*” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of $3.7E+10$ transformations per second (tps).

“*Decay-in-storage*” means the holding of radioactive material having half-lives of less than 65 days, except Cobalt-57, until it decays to background levels. Before disposal in ordinary trash, the material must have been held for a minimum of ten half-lives and its radioactivity is indistinguishable from background as indicated by a survey meter set on its most sensitive scale with no interposing shielding.

“*Decommission*” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

1. Release of the property for unrestricted use and termination of the license; or
2. Release of the property under restricted conditions and termination of the license.

“*Deep dose equivalent*” (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

“*Demand respirator*” means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

“*Depleted uranium*” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“*Detector*” (see “Radiation detector”).

“*Diagnostic clinical procedures manual*” means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

“*Diagnostic imaging system*” means an assemblage of components for the generation, emission, reception, transformation, storage and visual display of the resultant image.

“*Diagnostic X-ray imaging system*” means an assemblage of components for the generation, emission and reception of X-rays and the transformation, storage and visual display of the resultant X-ray image which are designed and used for irradiation of any part of the human or animal body for the purpose of diagnosis or visualization.

“*Direct supervision*” means guidance and instruction by a qualified individual who is physically present and watching the performance of the radiological operation or procedure and in such proximity that contact can be maintained and immediate assistance can be given as required.

“*Discrete source*” means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

“*Disposable respirator*” means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

“*Distinguishable from background*” means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

“*Dose*” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“*Dose equivalent (H_T)*” means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

“*Dose limits*” means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“*Effective dose equivalent (H_E)*” means the sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \sum w_T H_T$).

“*Embryo/fetus*” means the developing human organism from conception until the time of birth.

“*Entrance or access point*” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“*Exposure*” means being exposed to ionizing radiation or to radioactive material.

“*Exposure*” means the quotient of dQ by dm where “dQ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “dm” are completely stopped in air. (The special unit of exposure is the roentgen (R) (see 38.2(136C) for SI equivalent coulomb per kilogram). When not underlined as above or when indicated as ‘exposure’ or (X), the term “exposure” has a more general meaning in these rules.

“*Exposure rate*” means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

“*External dose*” means that portion of the dose equivalent received from any source of radiation outside the body.

“*Extremity*” means hand, elbow, arm below the elbow, foot, knee, and leg below the knee. See 641—subrule 42.1(2) for definitions of “lower extremities” and “upper extremities” for purposes of certification standards.

“*Facility*” means the location, building, vehicle, or complex under one administrative control, at which radioactive material is stored or used or at which one or more radiation machines are installed, located or used.

“*Filtering facepiece (dust mask)*” means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, which is not equipped with elastomeric sealing surfaces and adjustable straps.

“*Fit factor*” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“*Fit test*” means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“*Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities*” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“*Generally applicable environmental radiation standards*” means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

“*Gray (Gy)*” means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (1 Gy=100 rad).

“*Half-value layer (HVL)*” means the thickness of a specified material which attenuates X-radiation or gamma radiation to an extent such that the air kerma rate, exposure rate or absorbed dose rate is reduced to one-half of the value measured without the material at the same point. The contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

“*Hazardous waste*” means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

“*Healing arts*” means the occupational fields of diagnosing or treating disease, providing health care and improving health by the practice of medicine, osteopathy, chiropractic, podiatry, dentistry, nursing, veterinary medicine, and supporting professions, such as physician assistants, nurse practitioners, radiologic technologists, and dental hygienists.

“*Helmet*” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“*High dose-rate remote afterloader*” means a brachytherapy device that remotely delivers a dose rate in excess of 1200 rads (12 gray) per hour at the point or surface where the dose is prescribed.

“*High-level radioactive waste*” or “*HLW*” means (1) irradiated reactor fuel; (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel; and (3) solids into which such liquid wastes have been converted.

“*High radiation area*” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual’s receiving a dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from any source of radiation or 30 centimeters from any surface that the radiation penetrates.

“*Highway route controlled quantity*” means a quantity within a single package which exceeds:

1. 3,000 times the A_1 value of the radionuclides as specified in 49 CFR 173.435 for special form Class 7 (radioactive) material;
2. 3,000 times the A_2 value of the radionuclides as specified in 49 CFR 173.435 for normal form Class 7 (radioactive) material; or
3. 1,000 TBq (27,000 Ci), whichever is least.

“*Hood*” means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

“*Human use*” means the internal or external administration of radiation or radioactive material to human beings.

“*Individual*” means any human being.

“*Individual monitoring*” means the assessment of:

1. Dose equivalent by the use of devices designed to be worn by an individual or by the use of survey data; or
2. Committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. See the definition of DAC-hours in 641—Chapter 40.

“*Individual monitoring devices*” means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, “personnel dosimeter” and “dosimeter” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, optically stimulated luminescent (OSL) devices, and personal air sampling devices.

“*Industrial radiography*” means an examination of the structure of materials by nondestructive methods, utilizing ionizing radiation to make radiographic images.

“*Inspection*” means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the agency.

“*Instrument traceability*” means, for ionizing radiation measurements, the ability to show that an instrument has been calibrated at specified time intervals using a national standard or a transfer standard. If a transfer standard is used, the calibration must be from a laboratory accredited by a program which required continuing participation in measurement quality assurance with the National Institute of Standards and Technology or other equivalent national or international program.

“*Interlock*” means a device preventing the start or continued operation of equipment unless certain predetermined conditions prevail.

“*Internal dose*” means that portion of the dose equivalent received from radioactive material taken into the body.

“Ionizing radiation.” See “Radiation.”

“Irradiation” means the exposure of a living being or matter to ionizing radiation.

“Kilovolt (kV)(kilo electron volt (keV))” means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of 1000 volts in a vacuum.

“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means radiation emanating from the diagnostic or therapeutic source assembly except for:

1. The useful beam, and
2. Radiation produced when the exposure switch or timer is not activated.

“Lens dose equivalent (LDE)” applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

“License” means a license issued by the agency in accordance with the rules adopted by the agency.

“Licensed (or registered) material” means radioactive material received, possessed, used, transferred or disposed of under a general or specific license (or registration) issued by the agency.

“Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, osteopathy, chiropractic, podiatry, or dentistry in Iowa, or certified as a physician assistant as defined in Iowa Code section 148C.1, subsection 6, and is authorized to prescribe X-ray tests for the purpose of diagnosis or treatment.

“Licensee” means any person who is licensed by the agency in accordance with these rules and the Act.

“Licensing state” means any state with regulations equivalent to the suggested state regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM and which has been granted final designation by the Conference of Radiation Control Program Directors, Inc.

“Light field” means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

“Limits.” See “Dose limits.”

“Loose-fitting facepiece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lost or missing licensed (or registered) source of radiation” means licensed (or registered) source of radiation whose location is unknown. This definition includes licensed (or registered) material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

“Lot tolerance percent defective” means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

“Low dose-rate remote afterloader” means a brachytherapy device that remotely delivers a dose rate of less than or equal to 200 rads (2 gray) per hour at the point or surface where the dose is prescribed.

“mA” means milliamperere.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in this rule.

“Mammography” means the radiography of the breast except as defined in 641—subrule 41.6(1).

“Mammography unit” means an assemblage of components for the production of X-rays for use during mammography, including, at a minimum: an X-ray generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the supporting structures for these components.

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“*Medical use*” means the intentional internal or external administration of radioactive material or the radiation therefrom to patients or human research subjects under the supervision of an authorized user.

“*Medium dose-rate remote afterloader*” means a brachytherapy device that remotely delivers a dose rate of greater than 200 rads (2 gray), but less than 1200 rads (12 gray) per hour at the point or surface where the dose is prescribed.

“*Member of the public*” means any individual except when that individual is receiving an occupational dose.

“*Minor*” means an individual less than 18 years of age.

“*Misadministration*” means the administration of:

Radiation doses received from linear accelerator therapy, deep X-ray machine therapy or superficial therapy; involving;

Administration of external beam radiation that results, or will result, in unintended permanent functional damage to an organ or a physiological system as determined by a physician.

A dose that differs from the prescribed dose by more than 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin; and either:

(1) The total dose delivered differs from the prescribed dose by 20 percent or more; or

(2) The fractionated dose delivered differs from the prescribed dose for a single fraction by 50 percent or more.

A dose that exceeds 5 rem (0.05 sievert) effective dose equivalent, 50 rem (0.5 sievert) to an organ or tissue, or 50 rem (0.5 sievert) shallow dose equivalent to the skin from either of the following:

(1) An administration of the wrong treatment modality.

(2) An administration to the wrong patient or human research subject.

A dose to the skin or an organ or tissue other than the treatment site that exceeds by 50 rem (0.5 sievert) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive.

“*Monitoring (radiation monitoring, radiation protection monitoring)*” means the measurement of radiation levels, radioactive material concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

“*NARM*” means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material.

“*Natural radioactivity*” means radioactivity of naturally occurring nuclides. For the purpose of meeting the definition of a licensing state by the Conference of Radiation Control Program Directors, Inc., (CRCPD), NARM refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for licensing state designation purposes.

“*Negative pressure respirator (tight fitting)*” means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“*Nuclear Regulatory Commission (NRC)*” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“*Occupational dose*” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to radiation or to radioactive material from licensed or unlicensed and registered or unregistered sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered sources of radiation or radioactive material and released in accordance with 641—subrule 41.2(27), from voluntary participation in medical research programs, or as a member of the public.

“*Package*” means the packaging together with its radioactive contents as presented for transport.

“*Particle accelerator*.” See “Accelerator.”

“*Patient*” means an individual or animal subjected to healing arts examination, diagnosis or treatment.

“Peak tube potential” means the maximum value of the potential difference across the X-ray tube during an exposure.

“Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but shall not include federal government agencies.

“Personnel monitoring equipment.” See “Individual monitoring devices.”

“Phantom” means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.

“Positive pressure respirator” means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Positron emission tomography (PET) radionuclide production facility” means a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

“Powered air-purifying respirator (PAPR)” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

1. In a written directive; or
2. In accordance with the directions of the authorized user for procedures performed in 641—subrules 41.2(31) and 41.2(33).

“Prescribed dose” means:

1. For gamma stereotactic radiosurgery, the total dose as documented in the written directive;
2. For teletherapy, particle accelerators and X-ray therapy systems, the total dose and dose per fraction as documented in the written directive;
3. For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or
4. For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Pressure demand respirator” means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

“Primary dose monitoring system” means a system which will monitor the useful beam during irradiation and which will terminate irradiation when a preselected number of dose monitor units have been delivered.

“Primary protective barrier” (see “Protective barrier”).

“Principal activities,” as used in this part, means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

“Protective barrier” means a barrier used to reduce radiation exposure. The types of protective barriers are as follows:

1. *“Primary protective barrier”* means the material, excluding filters, placed in the useful beam.
2. *“Secondary protective barrier”* means a barrier sufficient to attenuate the stray radiation to the required degree.

“*Public dose*” means the dose received by a member of the public from exposure to radiation or to radioactive material released by a licensee, registrant, or other person, or to any other source of radiation under the control of a licensee, registrant, or other person. It does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered sources of radiation or radioactive material and released under 641—subrule 41.2(27) or from voluntary participation in medical research programs.

“*Pyrophoric material*” means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.4° C) or solid, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“*Qualified expert*” means an individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. For example, individuals certified in the appropriate field by the American Board of Radiology, the American Board of Medical Physics, or the American Board of Health Physics, or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the above qualifications, training and experience in the clinical applications of radiation physics to radiation therapy, for example, individuals certified in Therapeutic Radiological Physics or X-Ray and Radium Physics by the American Board of Radiology, or those having equivalent qualifications.

“*Qualitative fit test (QLFT)*” means a pass-fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

“*Quality factor*” (Q) means the modifying factor, listed in Tables I and II of 38.4(4), that is used to derive dose equivalent from absorbed dose.

“*Quantitative fit test (QNFT)*” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“*Rad*” means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray).

“*Radiation*” means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include nonionizing radiation, such as radiowaves or microwaves, visible, infrared, or ultraviolet light.

“*Radiation area*” means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“*Radiation detector*” means a device which, in the presence of radiation, by either direct or indirect means, provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

“*Radiation dose.*” See “Dose.”

“*Radiation machine*” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“*Radiation safety officer*” means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned such responsibility by the licensee or registrant.

“*Radioactive material*” means any solid, liquid, or gas which emits radiation spontaneously.

“*Radioactivity*” means the transformation of unstable atomic nuclei by the emission of radiation.

“*Radiobioassay.*” See “Bioassay.”

“*Radiographic imaging system*” means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

“*Radionuclide*” means a radioactive element or a radioactive isotope.

“*Registrant*” means any person who is registered with the agency or is legally obligated to register with the agency pursuant to these rules and the Act.

“*Registration*” means registration with the agency in accordance with the rules adopted by the agency.

“*Regulations of the U.S. Department of Transportation*” means the regulations in 49 CFR Parts 100-189.

“*Rem*” means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

“*Reportable medical event*” means the medical event, except for an event that results from patient intervention, in which the administration of by-product material or radiation from by-product material results in:

a. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 5 rem (0.05 Sv) effective dose equivalent, 50 rem (0.5 Sv) to an organ or tissue, or 50 rem (0.5 Sv) shallow dose equivalent to the skin; and

1. The total dose delivered differs from the prescribed dose by 20 percent or more;
2. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
3. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

b. A dose that exceeds 5 rem (0.05 Sv) effective dose equivalent, 50 rem (0.5 Sv) to an organ or tissue, or 50 rem (0.5 Sv) shallow dose equivalent to the skin from any of the following:

1. An administration of the wrong radioactive drug containing by-product material;
2. An administration of a radioactive drug containing by-product material by the wrong route of administration;
3. An administration of a dose or dosage to the wrong individual or human research subject;
4. An administration of a dose or dosage delivered by the wrong mode of treatment; or
5. A leaking sealed source.

c. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 50 rem (0.5 Sv) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

d. An event resulting from intervention of a patient or human research subject in which administration of by-product material or radiation from by-product material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

“*Research and development*” means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

“*Residual radioactivity*” means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 641—Chapter 40 or any previous state or federal licenses, rules or regulations.

“*Restricted area*” means an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area shall not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

“*Roentgen*” means the special unit of exposure. One roentgen (R) equals 2.58×10^{-4} coulombs/kilogram of air (see “Exposure” and 38.4(4)).

“*Scattered radiation*” means ionizing radiation emitted by interaction of ionizing radiation with matter, the interaction being accompanied by a change in direction of the radiation. Scattered primary

radiation means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam.

“*Sealed source*” means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

“*Secondary dose monitoring system*” means a system which will terminate irradiation in the event of failure of the primary dose monitoring system.

“*Secondary protective barrier*” (see “Protective barrier”).

“*Self-contained breathing apparatus (SCBA)*” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“*Shallow dose equivalent*” (H_s), which applies to the external exposure of the skin of the whole body or the skin of an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

“*Shutter*” means a device attached to the tube housing assembly which can intercept the entire cross-sectional area of the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

“*SI*” means the abbreviation for the International System of Units.

“*Sievert*” means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“*Simulator (radiation therapy simulation system)*” means any X-ray system intended for localizing the volume to be exposed during radiation therapy and reproducing the position and size of the therapeutic irradiation field.

“*Site area emergency*” means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by off-site response organizations to protect persons off site.

“*Site boundary*” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“*Source*” means the focal spot of the X-ray tube.

“*Source material*” means:

1. Uranium or thorium, or any combination thereof, in any physical or chemical form; or
2. Ores that contain by weight one-twentieth of 1 percent (0.05 percent) or more of uranium, thorium or any combination of uranium and thorium. Source material does not include special nuclear material.

“*Source material milling*” means any activity that results in the production of by-product material as defined by definition (2) of by-product material.

“*Source of radiation*” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“*Source traceability*” means the ability to show that a radioactive source has been calibrated either by the national standards laboratory of the National Institute of Standards and Technology or by a laboratory which participates in continuing measurement quality assurance programs with the National Institute of Standards and Technology or other equivalent national or international program.

“*Special form radioactive material*” means radioactive material which satisfies the following conditions:

1. It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
2. The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and
3. It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, must meet requirements of this definition applicable at the time of its design or construction.

“*Special nuclear material*” means:

1. Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the agency declares by order to be special nuclear material after the U.S. Nuclear Regulatory Commission, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

2. Any material artificially enriched by any of the foregoing but does not include source material.

“*Special nuclear material in quantities not sufficient to form a critical mass*” means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed 1. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

“*SSD*” means the distance between the source and the skin entrance plane of the patient (see “*Target-to-skin distance (TSD)*”).

“*Stray radiation*” means the sum of leakage and scattered radiation.

“*Supplied-air respirator (SAR)*” or “*airline respirator*” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“*Survey*” means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation or concentrations or quantities of radioactive material present.

“*Target-to-skin distance (TSD)*” means the distance measured along the beam axis from the center of the front surface of the X-ray target or electron virtual source scattering foil to the surface of the irradiated object or patient.

“*Teletherapy*” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“*Termination of irradiation*” means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

“*Test*” means the process of verifying compliance with an applicable regulation.

“*These rules*” means 641—Chapters 38 to 45.

“*Tight-fitting facepiece*” means a respirator inlet covering that forms a complete seal with the face.

“*Total effective dose equivalent*” (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

“*Total organ dose equivalent*” (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in 641—40.86(1) “*f*.”

“*Traceable to a national standard.*” See “*Instrument traceability*” or “*Source traceability.*”

“*Treatment site*” means the anatomical description of the tissue intended to receive a radiation dose, as described in the written directive.

“*Tube*” means an X-ray tube unless otherwise specified. See “*X-ray tube.*”

“*Tube housing assembly*” means the tube housing with tube installed. It includes high-voltage or filament transformers, or both, and other appropriate elements when such are contained within the tube housing.

“*Type A quantity*” means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material, or A_2 , for normal form radioactive material as defined in 10 CFR 71.4.

“*Type B quantity*” means a quantity of radioactive material greater than a Type A quantity as defined in 10 CFR 71.4.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

“Unrestricted area” means an area to which access is neither limited nor controlled by the licensee or registrant. For purposes of these rules, “uncontrolled area” is an equivalent term.

“U.S. Department of Energy” means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the U.S. Atomic Energy Commission, its chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the administrator thereof pursuant to Sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to Section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“User seal check (fit check)” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual’s receiving an absorbed dose in excess of 500 rad (5 Gy) in 1 hour at 1 meter from a source of radiation or 1 meter from any surface that the radiation penetrates.

“Waste” means those low-level radioactive wastes containing source, special nuclear, or by-product material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in paragraphs “2,” “3” and “4” of the definition of “by-product material” set forth in this chapter.

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal or persons licensed to dispose of radioactive waste.

“Wedge filter” means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

“Week” means seven consecutive days starting on Sunday.

“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Worker” means an individual engaged in work under a license or registration issued by the agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

“Working level” (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of $1.3E+5$ MeV of potential alpha particle energy. The short-lived radon daughters are—for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“Working level month” (WLM) means an exposure to 1 working level for 170 hours—2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

“Written directive” means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or by an individual qualified by training and experience to conduct particle accelerator therapy or radiation for X-ray therapy, as specified in 641—subrule 41.2(87).

“X-radiation” means penetrating electromagnetic radiation with energy greater than 0.1 kV produced by bombarding a metallic target with fast electrons in a high vacuum.

“X-ray tube” means any electron tube which is designed to be used primarily for the production of X-rays.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to

determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—38.3(136C) Exemptions from the regulatory requirements.

38.3(1) General provision. The agency may, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of the rules in 641—Chapters 38 to 46 as it determines are authorized by law and will not result in undue hazard to public health and safety or property. Application for exemptions or exceptions should be made in accordance with 641—Chapter 178.

38.3(2) Persons using by-product material under certain Department of Energy and Nuclear Regulatory Commission contracts.

a. Except to the extent that NRC facilities or activities of the types subject to licensing pursuant to the Energy Reorganization Act of 1974 are involved, any prime contractor of the NRC is exempt from the license requirements of these rules and from the regulations of these rules to the extent that such contractor, under the contractor's prime contract with the NRC, manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material for:

(1) The performance of work for a department at the United States government-owned or government-controlled site, including the transportation of by-product material to or from such site and the performance of contract services during temporary interruptions of such transportation;

(2) Research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or

(3) The use or operation of nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel.

b. In addition to the foregoing exemptions and subject to the requirement for licensing of NRC facilities and activities pursuant to the requirements of the Energy Reorganization Act of 1974, any prime contractor or subcontractor of the NRC is exempt from the requirements for a license set forth in the Act and from the regulations in these rules to the extent that such prime contractor or subcontractor manufactures, produces, transfers, receives, acquires, owns, possesses, or uses by-product material under the contractor's or subcontractor's prime contract or subcontract when the NRC determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work can be accomplished without undue risk to the public health and safety.

c. Carriers. Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from these rules to the extent that they transport or store radioactive material in the regular course of carriage for another or of storage incident thereto.

641—38.4(136C) General regulatory requirements.

38.4(1) Records.

a. Each licensee and registrant shall maintain records showing the receipt, transfer, and disposal of all sources of radiation. Additional record requirements are specified elsewhere in these rules.

b. Electronic records.

(1) A record or signature shall not be denied legal effect or enforceability solely because it is in electronic form.

(2) A contract shall not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(3) If a rule requires a record to be in writing, an electronic record shall satisfy the rule.

(4) If a rule requires a signature, an electronic signature shall satisfy the rule.

38.4(2) Inspections.

a. Each licensee and registrant shall afford the agency at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

b. Each licensee and registrant shall make available to the agency for inspection, upon reasonable notice, records maintained pursuant to these rules.

38.4(3) Tests. Each licensee and registrant shall perform upon instructions from the agency, or shall permit the agency to perform, such reasonable tests as the agency deems appropriate or necessary including, but not limited to, tests of:

- a.* Sources of radiation;
- b.* Facilities wherein sources of radiation are used or stored;
- c.* Radiation detection and monitoring instruments; and
- d.* Other equipment and devices used in connection with utilization or storage of licensed or registered sources of radiation.

38.4(4) Units of exposure and dose.

a. As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent (see footnote "1")
X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

1. Absorbed dose in rad equal to 1 rem or the absorbed dose in gray equal to 1 sievert.

b. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, as provided in 38.4(4) "a," 1 rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

	Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal)	2.5E-8	2	980E+6	980E+8
	1E-7	2	980E+6	980E+8
	1E-6	2	810E+6	810E+8
	1E-5	2	810E+6	810E+8
	1E-4	2	840E+6	840E+8
	1E-3	2	980E+6	980E+8
	1E-2	2.5	1010E+6	1010E+8

Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8
2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

^aValue of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

^bMonoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

38.4(5) Units of activity. Rescinded IAB 4/8/98, effective 7/1/98.

38.4(6) Additional requirements. The agency may, by rule, regulation, or order, impose upon any licensee or registrant such requirements in addition to those established in these rules as it deems appropriate or necessary to minimize danger to public health and safety or property.

641—38.5(136C) Administrative actions. Rescinded IAB 4/3/02, effective 5/8/02.

641—38.6(136C) Prohibited uses. A hand-held fluoroscopic screen shall not be used with X-ray equipment unless it has been accepted for certification by the U.S. Food and Drug Administration, Center for Devices and Radiological Health. A shoe-fitting fluoroscopic device shall not be used. Radiation from radiation-emitting machines or radioactive materials shall not be used on humans for nonmedical purposes.

641—38.7(136C) Communications.

38.7(1) All communications and reports concerning these rules, and applications filed thereunder, should be addressed to the agency at its office located at the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, 5th Floor, Des Moines, Iowa 50319.

38.7(2) Drafts of proposed regulations released to the department from the federal government which constitute essential information needed by the department to ensure compliance with federal regulations are not available for public examination. Therefore, pursuant to Iowa Code section 22.9, the department waives the provision of Iowa Code section 22.2 as it applies to these proposed draft regulations.

641—38.8(136C) Fees.

38.8(1) Radiation machines.

a. Each registrant shall, at the time of registration and the anniversary date thereafter, as long as the registrant owns the radiation machine, remit to the agency a nonrefundable fee sufficient to defray the cost of registering the equipment with the department. All fees shall be paid annually in the form of a check or money order made payable to the Iowa Department of Public Health. The fees to be paid shall be in the amount computed by the following schedule:

ANNUAL FEE SCHEDULE

Type of X-ray machine	Fee per tube	Maximum fee
1. Medical	\$51	\$1500
2. Osteopathy	\$51	\$1500
3. Chiropractic	\$51	\$1500
4. Dentistry	\$39	\$1000
5. Podiatry	\$39	\$1000
6. Veterinary Medicine	\$25	—
7. (Industrial/Nonmedical Use)	\$50	—
8. Food Sterilization	\$1000	—
9. Accelerators and Electronic Brachytherapy Units	\$100	—
10. Electron Microscope	\$20	—
11. Bone Densitometry	\$25	—

Fees for radiation machines not listed in the above schedule shall not be less than \$50 per unit/tube.

b. Each registrant shall, where appropriate, pay the following special inspections/interpretation fee at the written request of the department:

(1) Mammography unit inspections fees:

- \$900 for the first unit and, if the facility has additional units at the address of the first unit, a fee of \$325 for each additional unit; or
- \$900 per portable unit for each site where the unit is off-loaded and used and where the processing and patient films are stored; or
- Dollar amount to be determined and justified by the department on a case-by-case basis for facilities which do not meet the above criteria; or
- \$450 for the second facility follow-up visit to review or determine the corrective action taken to address noncompliances; or
- \$900 for each stereotactic breast biopsy unit.

(2) Mammography interpretation fees of \$100 per mammography examination provided to the department for the purpose of determining film diagnostic quality.

(3) Industrial and oncology accelerator registrants and electronic brachytherapy registrants shall pay for each inspection a fee of \$400 for the first unit and \$100 for each additional unit.

(4) Industrial radiography X-ray units/walk-in cabinet radiography X-ray unit registrants shall pay for each inspection a fee of \$250 for the first unit and \$75 for each additional unit.

c. Each person who is engaged in the business of installing or offering to furnish radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or service in the state shall apply for registration of such service with the agency prior to furnishing or offering to furnish any such service. Application shall be on a form provided by the department and include an annual nonrefundable fee of \$100.

d. Each person engaged in providing health physics services in mammography in Iowa, who meets the requirements of 641—paragraph 41.6(3) “c” and is deemed qualified by this agency, must submit a \$40 annual listing fee to this agency.

e. All mammography facilities providing services in Iowa must submit a \$50 annual authorization certification fee.

f. All Iowa-accredited facilities providing mammography services in Iowa must submit a \$200 accreditation fee for initial accreditation and each reaccreditation.

38.8(2) Radioactive material fee schedule. Fees associated with the possession and use of radioactive materials in Iowa shall not exceed those specified in 10 CFR 170.31 and 10 CFR 171.16. The following fee schedule shall apply.

	Program Code	Category	Type	New License Fee	Inspection Priority	Annual Fee
(3.L.)	01100	AAB	Academic Type A Broad	\$5,000	1	\$10,500
(8.A.)	03710	CD	Civil Defense	\$1,000	5	\$1,000
(3.E.)	03510	I1	Irradiators, Self-Shielding <10,000 Curies	\$2,000	5	\$650
(3.O.)	03320	IR1	Industrial Radiography – Temporary Job Sites	\$4,500	1	\$4,300
(3.P.)	03120	FG	Measuring Systems – Fixed Gauge	\$1,300	5	\$650
(3.P.)	03121	PG	Measuring Systems – Portable Gauge	\$1,300	5	\$650
(3.P.)	02410	IVL	<i>In-Vitro</i> Testing Laboratory	\$1,300	5	\$650
(7.C.)	02230	HDR	High Dose Rate Afterloader	\$2,300	1	\$3,400
(7.C.)	02120	M1	Medical – Diagnostic & Therapy	\$2,300	3	\$1,500
(7.C.)	02121	M2	Medical – Diagnostic Only	\$2,300	4	\$1,200
(7.C.)	02240	MET	Medical – Diagnostic, Therapeutic, Emerging Technologies	\$2,300	2	\$2,000
(3.S.)	03210	PET	Accelerator-Produced RAM	\$3,000	1	\$4,300
(3.C.)	02500	NP	Nuclear Pharmacy	\$3,000	1	\$3,500
(7.C.)	02231	NV1	Nuclear Medical Van	\$2,300	2	\$1,800
(7.C.)	22160	PMM	Pacemaker – By-Product and/or SNM	\$2,300	T	Note 5
(3.M.)	03620	RD2	Research & Development – Other	\$2,500	3	\$1,350
(2.C.)	11300	SM1	Source Material, Other, >150 Kilograms	\$6,000	3	\$2,250
(1.D.)	22120	SNM2	SNM Plutonium – Neutron Source	\$1,500	5	\$500
(3.P.)	03221	CAL	Calibration and W/L Tests	\$1,300	5	\$650
(3.P.)	03122	XRF	X-Ray Fluorescent Analyzer	\$1,300	7	\$650
(3.P.)	02400	VMT	Veterinary Medicine – Therapy	\$1,300	3	\$650
(3.B.)	03214	MD	Manufacturing/Distribution	\$3,500	3	\$1,800

Notes:

1. Reciprocity fee is \$1,800 annually (180 days).
2. Inspection priorities are based on NRC inspection manual chapter 2800. Priority “T” is a telephonic contact and is not considered an inspection.
3. License amendment fee for all categories is \$400.
4. Annual fees are due no later than September 1 of each year. A 10% late charge will be assessed per month for late payments. Licensees with more than two authorized locations of use will be charged an additional 10% of the annual fee per location.
5. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses with the agency.
6. General license registration fee is \$250 annually on registration anniversary.

38.8(3) Industrial radiography testing and certification.

a. A nonrefundable fee of \$175 shall be submitted with each application for taking an industrial radiography examination to become certified by the agency.

b. A fee of \$25 shall be submitted in order to replace lost identification cards issued to industrial radiographers by the agency pursuant to 641—subrule 45.1(10).

c. A nonrefundable fee of \$75 shall be submitted with each application, not associated with an agency-administered industrial radiography examination, for a trainee or trainer card issued to a radiographer's assistant or an industrial radiographer.

38.8(4) Owner-assessed expenses. In cases in which the agency determines that the cost of regulating or inspecting registered radiation machine facilities or radioactive materials licensees significantly exceeds the fees charged to the facility, it may assess an additional fee to the owner or user of the source(s) of radiation to cover the actual expenses incurred by the agency.

38.8(5) Environmental surveillance fee. A fee may be levied against any licensee, registrant, corporation, company, business, or individual for environmental surveillance activities which are necessary to assess the radiological impact of activities conducted by the licensee, registrant, corporation, company, business, or individual. This fee shall be sufficient to defray actual costs incurred by the agency, including, but not limited to, salaries of agency employees, per diem, travel, and costs of laboratory analysis of samples, when required.

38.8(6) Certification fees. Rescinded IAB 2/6/13, effective 3/13/13.

38.8(7) Returned check and late fees. Persons who fail to pay required fees to the agency are subject to the following penalties:

a. \$25 for each payment received by the agency in accordance with these rules, for which insufficient funds are available to fulfill the obligation of such payment to the agency.

b. \$25 for each month for failure to pay any fee administered by this agency starting 30 days after the due date of the original notice. This fee is added to the unpaid fee.

38.8(8) Reciprocity. Fees paid for reciprocal recognition of out-of-state persons wishing to utilize radiation machines or radioactive materials in Iowa shall allow the out-of-state person to operate for a total of 180 days during the 365-day reciprocity period starting the date the fee is received by the agency.

a. Radiation machines. Any out-of-state person who wishes to bring an X-ray machine or linear accelerators into the state to perform work or services shall pay a reciprocity fee of \$100 for each source of radiation.

b. Radioactive materials. Out-of-state persons wishing to bring sources of radioactive material into Iowa for business purposes may be subject to a reciprocity fee depending on the type of activity to be performed and the type of radioactive materials license possessed (refer to 641—subrule 39.4(90)). If a reciprocity fee is applicable, it shall be assessed at the rate for reciprocity specified in the radioactive materials fee schedule available through the agency for each 365-day reciprocity period. In addition, if the agency performs an inspection of the out-of-state person's activities while in Iowa, the appropriate inspection fee as specified in the radioactive materials fee schedule will be assessed.

c. Industrial radiographers wishing to operate in Iowa under an identification card from a jurisdiction recognized by Iowa that charges Iowa card holders a fee will be assessed and must pay a \$100 fee prior to conducting industrial radiography in Iowa.

38.8(9) Radon certification. Rescinded IAB 4/3/02, effective 5/8/02.

38.8(10) Radon mitigation credentialing. Rescinded IAB 4/3/02, effective 5/8/02.

38.8(11) Radioactive material transport fee schedule.

a. All shippers shall pay the following fee(s) unless the department obtains sufficient funding from another source, which may include but is not limited to a federal agency or a contract with a shipper.

(1) \$1800 per highway cask for each truck shipment of spent nuclear fuel, high-level radioactive waste, transuranic waste, or highway route controlled quantity of radioactive materials or any material shipped in accordance with rule 641—37.77(136C) traversing the state or any portion thereof. Single cask truck shipments are subject to a surcharge of \$20 per mile for every mile over 250 miles traveled.

(2) \$1300 for the first cask and \$125 for each additional cask for each rail shipment of spent nuclear fuel, high-level radioactive waste, transuranic waste, or any material shipped in accordance with rule 641—37.77(136C) traversing the state or any portion thereof.

(3) \$175 for each shipment by truck or by rail paid by the shipper for low-level radioactive waste shipped in or across Iowa. The department may accept an annual shipment fee as negotiated with a shipper or accept payment per shipment. This fee applies to waste shipped to a site authorized by a government agency to receive low-level radioactive waste or shipped to a storage site to be held for future disposal.

b. All fees must be paid by the shipper prior to shipment. Shippers must request an application for a permit to ship radioactive material from the Iowa Department of Transportation, Office of Motor Carrier Services. Assistance may be obtained by calling the Bureau of Radiological Health at (515)281-3478. Other methods of fee payment may be considered by the department on a case-by-case basis upon request of the shipper. A request for an alternative method of payment must be made to the department prior to shipment.

c. All fees received pursuant to this subrule shall be used for purposes related to transporting radioactive material, including enforcement and planning, developing, and maintaining a capability for emergency response.

38.8(12) Fee waiver. Any fee may be waived in exchange for services (low-level waste disposal, radiation detection instrument calibration, instrument repair, sample analysis, etc.) provided to the agency. The waiver may only occur as a result of a 28E agreement between the parties.

[ARC 8982B, IAB 8/11/10, effective 9/15/10; ARC 0577C, IAB 2/6/13, effective 3/13/13; ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—38.9(136C) Administrative enforcement actions.

38.9(1) Scope.

a. This rule prescribes the procedure in cases initiated by the staff, or upon a request by any person, to impose requirements by order, or to modify, suspend, or revoke a license, registration, or certificate or to take other action as may be proper against any person subject to the jurisdiction of the agency. The term “regulated entity” as used in this rule refers to any facility, person, partnership, corporation or other organization which is regulated by the agency by virtue of these rules, the Iowa Code, licensing documents, registrations, certificates, or other official regulatory promulgation. “Authorization” means license, registration, certificate, permit, or any other document issued or received by the agency that authorizes specific activities related to the possession and use of radioactive materials or radiation-producing machines in Iowa.

b. This rule also prescribes the procedures in cases initiated by the staff to impose civil penalties pursuant to Iowa Code section 136C.4, to impose serious misdemeanor penalties pursuant to Iowa Code section 136B.5 or to impose simple misdemeanor penalties pursuant to Iowa Code section 136D.8.

38.9(2) Notice of violation.

a. In response to an alleged violation of any provision of the Iowa Code, these rules, the conditions of an authorization issued by the agency or any order issued by the agency, the agency may serve on the regulated entity a written notice of violation; a separate notice may be omitted if an order pursuant to 38.9(3) or demand for information pursuant to 38.9(5) is issued that otherwise identifies the apparent violation. The notice of violation will concisely state the alleged violation(s) and will require that the regulated entity submit, within 30 days of the date of the notice or other specified time, a written explanation or statement in reply including:

- (1) Corrective steps which have been taken by the regulated entity and the results achieved;
- (2) Corrective action which will be taken to prevent recurrence; and
- (3) The date when full compliance will be achieved.

b. The notice may require the regulated entity subject to the jurisdiction of the agency to admit or deny the violation and to state the reasons for the violation, if admitted. It may provide that, if an adequate reply is not received within the time specified in the notice, the agency may issue an order or

a demand for information as to why the authorization should not be modified, suspended, or revoked or why such other action as may be proper should not be taken.

c. Violations are categorized according to five levels of severity, which are:

(1) Severity Levels I and II: Violations are of very significant regulatory concern involving actual or high potential impact on the public health and safety.

(2) Severity Level III: Violations are cause for significant concern.

(3) Severity Level IV: Violations are less serious but are of more than minor concern and that, if left uncorrected, could lead to a more serious health and safety concern.

(4) Severity Level V: Violations are of minor safety or environmental concern.

d. A group of violations may be evaluated in the aggregate and assigned a single higher severity level if the violations have the same underlying cause or if the violations contributed to or were unavoidable consequences of the underlying problem.

e. The severity level of a violation may be increased if the violation can be considered a repetitive violation. The term “repetitive violation” or “similar violation” means a violation that reasonably could have been prevented by a regulated entity’s corrective action for a previous violation normally occurring within the past two years of the inspection at issue or the period within the last two inspections, whichever is longer.

f. The severity level of a violation may be increased if the violation involves casual disregard of requirements, deception, or other indications of willfulness. The term “willfulness” is that characteristic of violations ranging from deliberate intent to violate or falsify to intentional disregard for regulatory requirements.

38.9(3) Orders.

a. The agency may institute a proceeding to modify, suspend, or revoke an authorization or to take other action as may be proper by serving on the regulated entity an order which will:

(1) Allege the violations with which the regulated entity is charged, or the potentially hazardous conditions or other facts deemed to be sufficient grounds for the proposed action;

(2) Provide that the regulated entity may file a written answer to the order under oath or affirmation within 20 days of its date, or such other time as may be specified in the order;

(3) Inform the regulated entity of its right, within 20 days of the date of the order, or such other time as may be specified in the order, to demand a hearing on all or part of the order, except in a case where the regulated entity has consented in writing to the order;

(4) Specify the issues for hearing; and

(5) State the effective date of the order; if the agency finds that the public health, safety, or interest so requires or that the violation or conduct causing the violation is willful, the order may provide, for stated reasons, that the proposed action be immediately effective pending further order.

b. A regulated entity who receives an order may respond to an order under this subrule by filing a written answer under oath or affirmation. The answer shall specifically admit or deny each allegation or charge made in the order and may set forth the matters of fact and law on which the regulated entity relies, and, if the order is not consented to, the reasons as to why the order should not have been issued. Except as provided in paragraph “d” of this subrule, the answer may demand a hearing.

c. If the answer demands a hearing, the agency will issue an order designating the time and place of hearing.

d. An answer or stipulation may consent to the entry of an order in substantially the form proposed in the order with respect to all or some of the actions proposed in the order. The consent, in the answer or other written document, of the regulated entity to whom the order has been issued shall constitute a waiver by the regulated entity of a hearing, findings of fact and conclusions of law, and of all right to seek agency and judicial review or to contest the validity of the order in any forum as to those matters which have been consented to or agreed to or on which a hearing has not been requested. An order that has been consented to shall have the same force and effect as an order made after hearing by a presiding officer or the agency, and shall be effective as provided in the order.

38.9(4) Settlement and compromise. At any time after the issuance of an order designating the time and place of hearing in a proceeding to modify, suspend, or revoke an authorization, the staff and a

regulated entity may enter into a stipulation for the settlement of the proceeding or the compromise of a civil penalty.

38.9(5) Demand for information.

a. The agency may issue to a regulated entity a demand for information for the purpose of determining whether an order under 38.9(3) should be issued, or whether other action should be taken, which demand will:

(1) Allege the violations with which the regulated entity is charged, or the potentially hazardous conditions or other facts deemed to be sufficient ground for issuing the demand; and

(2) Provide that the regulated entity must file a written answer to the demand for information under oath or affirmation within 20 days of its date, or such time as may be specified in the demand for information.

b. A regulated entity to whom the agency has issued a demand for information under this subrule must respond to the demand by filing a written answer under oath or affirmation. The regulated entity's answer shall specifically admit or deny each allegation or charge made in the demand for information, and shall set forth the matters of fact and law on which the licensee relies. A person other than a licensee may answer as described above, or by setting forth its reasons why the demand should not have been issued and, if the requested information is not provided, the reasons why it is not provided.

c. Upon review of the answer filed pursuant to 38.9(5) "a"(2), or if no answer is filed, the agency may institute a proceeding pursuant to 38.9(3) to take such action as may be proper.

d. An answer may consent to the entry of an order pursuant to 38.9(3) in substantially the form proposed in the demand for information. Such consent shall constitute a waiver as provided in 38.9(3) "d."

38.9(6) Civil penalties.

a. Before instituting any proceeding to impose a civil penalty under Iowa Code section 136C.4, the agency shall serve a written notice of violation upon the person charged. This notice may be included in a notice issued pursuant to 38.9(2). The notice of violation shall specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged and shall identify specifically the particular provision or provisions of the law, rule, regulation, license, permit, or cease and desist order involved in the alleged violation and must state the amount of each proposed penalty. The notice of violation shall also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation or showing extenuating circumstances. The notice of violation shall advise the person charged that upon failure to pay a civil penalty subsequently determined by the agency, if any, unless compromised, remitted, or mitigated, the fee shall be collected by civil action, pursuant to Iowa Code section 136C.4.

b. Within 20 days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed or answer the notice of violation. The answer to the notice of violation shall state any facts, explanations, and arguments denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty.

c. If the person charged with violation fails to answer within the time specified in 38.9(6) "b," an order may be issued imposing the civil penalty in the amount set forth in the notice of violation described in 38.9(6) "a."

d. If the person charged with violation files an answer to the notice of violation, the agency, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within 20 days of the date of the order or other time specified in the order, request a hearing.

e. If the person charged with violation requests a hearing, the agency will issue an order designating the time and place of hearing.

f. If a hearing is held, an order will be issued after the hearing by the presiding officer or the agency dismissing the proceeding or imposing, mitigating, or remitting the civil penalty.

g. The agency may compromise any civil penalty, subject to the provisions of 38.9(4).

h. If the civil penalty is not compromised, or is not remitted by the presiding officer or the agency, and if payment is not made within ten days following either the service of the order described in 38.9(6) “*c*” or “*f*,” or the expiration of the time for requesting a hearing described in 38.9(6) “*d*,” the agency may refer the matter to the attorney general for collection.

i. Except when payment is made after compromise or mitigation by the Department of Justice or as ordered by a court of the state, following reference of the matter to the attorney general for collection, payment of civil penalties imposed under Iowa Code section 136C.4 shall be made by check, draft, or money order payable to the Iowa Department of Public Health.

38.9(7) Requests for action under this rule.

a. Any person may file a request to institute a proceeding pursuant to 38.9(3) to modify, suspend, or revoke an authorization as may be proper. Such a request shall be addressed to the Chief, Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The requests shall specify the action requested and set forth the facts that constitute the basis for the request. The bureau chief will discuss the matter with staff to determine appropriate action in accordance with 38.9(7) “*b*.”

b. Within a reasonable time after a request pursuant to 38.9(7) “*a*” has been received, the bureau chief shall either institute the requested proceeding in accordance with this rule or shall advise the person who made the request in writing that no proceeding will be instituted, in whole or in part, with respect to the request, and the reasons for the decision.

c. (1) The bureau chief’s decisions under this rule will be filed and within 25 days after the date of the bureau chief’s decision under this rule that no proceeding will be instituted or other action taken in whole or in part, the agency may on its own motion review that decision, in whole or in part, to determine if the bureau chief has abused discretion. This review power does not limit in any way either the agency’s supervisory power over delegated staff actions or the agency’s power to consult with the staff on a formal or informal basis regarding institution of proceedings under this rule.

(2) No petition or other request for agency review of a bureau chief’s decision under this rule will be entertained by the agency.

38.9(8) Impounding. The agency may impound or order the impounding of radioactive material in the possession of a person who fails to observe the provisions of Iowa Code chapter 136C, or any rules, license or registration conditions, or orders issued by this agency.

a. If agency action is necessary to protect the public health and safety, no prior notice need be given the owner or possessor. If agency action is not necessary to protect the public health and safety, the agency will give to either the owner or the possessor of the source of radiation written notice of the intention to impound the source of radiation.

(1) Either the owner or the possessor shall have 20 days from the date of personal service of certified mailing to request a hearing, except in the case where the regulated entity has consented in writing to the impoundment.

(2) If a hearing is requested, the agency will issue an order designating the time and place of hearing.

b. At the agency’s direction, the impounded sources of radiation may be disposed of by:

(1) Returning the source of radiation to a properly licensed or registered owner that did not cause the emergency;

(2) Returning the source of radiation to a licensee or registrant after the emergency is over and after settlement of any compliance action; or

(3) Selling, destroying, or disposing of the source of radiation in another manner within the agency’s discretion.

641—38.10(136C) Deliberate misconduct.

38.10(1) Any licensee, registrant, applicant for a license or certificate of registration, employee of a licensee, registrant or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or registrant or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, registrant, contractor, or

subcontractor any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's or applicant's activities in this rule, may not:

a. Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, registrant, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the agency; or

b. Deliberately submit to the agency, a licensee, registrant, applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the agency.

38.10(2) A person who violates paragraph 38.10(1) "a" or "b" may be subject to enforcement action in accordance with the procedures in 641—38.9(136C).

38.10(3) For the purposes of paragraph 38.10(1) "a," deliberate misconduct by a person means an intentional act or omission that the person knows:

a. Would cause a licensee, registrant, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the agency; or

b. Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, registrant, applicant, contractor, or subcontractor.

These rules are intended to implement Iowa Code chapter 136C.

[Filed 4/7/80, Notice 2/6/80—published 4/30/80, effective 7/1/80]

[Filed 5/17/85, Notice 2/7/85—published 6/5/85, effective, see rule 38.18]

[Filed 11/24/86, Notice 10/8/86—published 12/17/86, effective 1/21/87]

[Filed 11/6/87, Notice 9/23/87—published 12/2/87, effective 1/6/88]

[Filed 9/30/88, Notice 8/10/88—published 10/19/88, effective 11/23/88]

[Filed emergency 11/9/89 after Notice 10/4/89—published 11/29/89, effective 11/9/89]

[Filed 1/14/91, Notice 10/17/90—published 2/6/91, effective 3/13/91][◇]

[Filed 5/10/91, Notice 4/3/91—published 5/29/91, effective 8/28/91]

[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]

[Filed 7/16/92, Notice 5/27/92—published 8/5/92, effective 9/9/92]

[Filed emergency 8/14/92—published 9/2/92, effective 9/9/92]

[Filed emergency 9/14/92 after Notice 7/22/92—published 9/30/92, effective 10/1/92]

[Filed 11/5/92, Notice 9/30/92—published 11/25/92, effective 1/13/93]

[Filed 9/17/93, Notice 8/4/93—published 10/13/93, effective 1/1/94]

[Filed emergency 11/15/93—published 12/8/93, effective 11/15/93]

[Filed 7/14/94, Notice 6/8/94—published 8/3/94, effective 9/7/94]

[Filed 5/15/95, Notice 3/29/95—published 6/7/95, effective 7/12/95]

[Filed 1/11/96, Notice 10/11/95—published 1/31/96, effective 3/6/96]

[Filed 3/15/96, Notice 1/31/96—published 4/10/96, effective 5/15/96]

[Filed 9/16/96, Notice 7/17/96—published 10/9/96, effective 11/16/96]

[Filed 5/16/97, Notice 4/9/97—published 6/4/97, effective 7/9/97]

[Filed 2/26/98, Notice 9/10/97—published 3/25/98, effective 4/29/98]

[Filed 3/18/98, Notice 1/14/98—published 4/8/98, effective 7/1/98]

[Filed 4/2/99, Notice 1/13/99—published 4/21/99, effective 7/1/99]

[Filed 3/15/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]

[Filed 3/16/01, Notice 2/7/01—published 4/4/01, effective 5/9/01]¹

[Filed 5/10/01, Notice 4/4/01—published 5/30/01, effective 7/4/01]

[Filed without Notice 1/10/02—published 2/6/02, effective 3/14/02]

[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 11/15/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]

[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]

[Filed 11/17/03, Notice 10/1/03—published 12/10/03, effective 1/14/04]

[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]

[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]

[Filed 3/9/06, Notice 2/1/06—published 3/29/06, effective 5/3/06]

[Filed 3/16/07, Notice 1/31/07—published 4/11/07, effective 5/16/07]

[Filed 7/13/07, Notice 6/6/07—published 8/1/07, effective 9/5/07]

[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]

[Filed ARC 8982B (Notice ARC 8762B, IAB 5/19/10), IAB 8/11/10, effective 9/15/10]

[Filed ARC 0577C (Notice ARC 0381C, IAB 10/3/12), IAB 2/6/13, effective 3/13/13]

[Filed ARC 1479C (Notice ARC 1414C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

◊ Two or more ARCs

¹ Effective date of 38.8(11) delayed 70 days from May 9, 2001, by the Administrative Rules Review Committee at its meeting held May 4, 2001.

At its meeting held July 10, 2001, the Committee delayed the effective date until adjournment of the 2002 Session of the General Assembly.

CHAPTER 39
REGISTRATION OF RADIATION MACHINE FACILITIES, LICENSURE OF RADIOACTIVE
MATERIALS AND TRANSPORTATION OF RADIOACTIVE MATERIALS

641—39.1(136C) Purpose and scope.

39.1(1) All persons possessing radiation machines within the state shall be registered in accordance with this chapter, except as specifically exempted.

39.1(2) No person shall receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license issued pursuant to this chapter or as otherwise provided in these rules.

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of July 16, 2014.

39.1(4) In addition to the requirements of this chapter, all registrants are subject to the requirements of 641—Chapters 38 and 40. Furthermore, registrants engaged in healing arts are subject to the requirements of 641—Chapters 41 and 42; registrants engaged in industrial/nonmedical radiographic operations are subject to the requirements of 641—Chapter 45.

39.1(5) In areas under exclusive federal jurisdiction, nothing in these rules applies to the extent that persons are subject to regulation by the U.S. Nuclear Regulatory Commission (NRC) or other federal agencies.

[ARC 7983B, IAB 7/29/09, effective 9/2/09; ARC 8982B, IAB 8/11/10, effective 9/15/10; ARC 1479C, IAB 6/11/14, effective 7/16/14]

641—39.2(136C) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 38 may also apply to this chapter.

641—39.3(136C) Requirements for registration of X-ray and other electronic machines that produce radiation.

39.3(1) Exemptions.

a. Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this chapter, provided that the dose equivalent rate averaged over an area of 10 square centimeters does not exceed 0.5 millirem (5 μ Sv) per hour at 5 centimeters from any accessible surface of such equipment. The production, testing, or factory servicing of such equipment shall not be exempt.

b. Radiation machines while in transit or storage incident thereto are exempt from the requirements of this chapter.

c. Domestic television receivers are exempt from the requirements of this chapter.

39.3(2) Application for registration of radiation machine facilities. Each person having a radiation machine facility shall:

a. Apply for registration of such facility with the agency prior to the operation of a radiation machine facility. In order to register equipment, the person must have a storage area located in Iowa where records of equipment maintenance and quality assurance, personnel monitoring, and personnel certification must be kept for review during an inspection. The records may be stored on a van, if appropriate. An Iowa mailing address is not required. Application for registration shall be completed on forms furnished by the agency and shall include the appropriate fee from 641—38.8(136C).

b. Designate on the application form an individual to be responsible for radiation protection.

c. Each registrant shall prohibit any person from furnishing radiation machine servicing or services as described in 39.3(3)“*d*” to the registrant’s radiation machine facility until such person provides evidence that the person has been registered with the agency as a provider of services in accordance with 39.3(3).

39.3(3) Application for registration of servicing and services.

a. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services

in this state shall apply for registration of such services with the agency prior to furnishing or offering to furnish any such services.

b. Application for registration shall be completed on forms furnished by the agency and shall contain all information required by the agency as indicated on the forms and accompanying instructions and include the fee required in 641—paragraph 38.8(1)“c.”

c. Each person applying for registration under this chapter shall specify:

- (1) That the person has read and understands the requirements of these rules;
- (2) The services for which the person is applying for registration;
- (3) The training and experience that qualify the person to discharge the services for which the person is applying for registration;
- (4) The type of measurement instrument to be used, frequency of calibration, and source of calibration; and
- (5) The type of personnel dosimeters supplied, frequency of reading, and replacement or exchange schedule.

d. For the purpose of 39.3(3), services may include but shall not be limited to:

- (1) Installation and servicing of radiation machines and associated radiation machine components;
- (2) Calibration of radiation machines or radiation measurement instruments or devices;
- (3) Radiation protection or health physics consultations or surveys; and
- (4) Processor or processor servicing, or both.
- (5) Calibration and compliance surveys of external beam radiation therapy units.

e. No individual shall perform services which are not specifically stated for that individual on the notice of registration issued by the agency.

f. A registration may be revoked for violating or causing a facility to violate any of the rules in 641—Chapters 38 through 45.

g. Radiation therapy physicists providing services for therapeutic radiation machines must provide proof that the training requirements of 641—subrule 41.3(6) have been met.

39.3(4) Issuance of notice of registration.

a. Upon a determination that an applicant meets the requirements of this chapter, the agency shall issue a notice of registration.

b. The agency may incorporate in the notice of registration at the time of issuance or thereafter by appropriate rule, regulation, or order, such additional requirements and conditions with respect to the registrant’s receipt, possession, use, and transfer of radiation machines as it deems appropriate or necessary.

39.3(5) Expiration of notice of registration. Except as provided by 39.3(6)“b,” each notice of registration shall expire within 12 months of issuance or at the end of the specified day in the month and year stated therein.

39.3(6) Renewal of notice of registration.

a. Application for renewal of registration shall be filed in accordance with 39.3(2) or 39.3(3).

b. In any case in which a registrant has properly filed an application for renewal of current registration within 90 days prior to the expiration of the existing registration, such existing registration shall not expire until the application status has been finally determined by the agency.

39.3(7) Report of changes. The registrant shall notify the agency in writing before making any change which would render the information contained in the application for registration or the notice of registration no longer accurate.

39.3(8) Approval not implied. No person, in any advertisement, shall refer to the fact that the person or the person’s facility is registered with the agency pursuant to the provisions of 39.3(2) or 39.3(3), and no person shall state or imply that any activity under such registration has been approved by the agency.

39.3(9) Assembler and transfer obligation.

a. Any person who sells, leases, transfers, lends, disposes of, assembles, or installs radiation machines in this state shall notify the agency in writing within 15 days of:

- (1) The name and address of persons who have received these machines;
- (2) The manufacturer, model, and serial number of each radiation machine transferred; and

(3) The date of transfer of each radiation machine.

b. No person shall make, sell, lease, transfer, lend, assemble, or install radiation machines or the supplies used in connection with such machines unless such supplies and equipment, when properly placed in operation and used, shall meet the requirements of 641—Chapters 38, 39, 40 and 41.

c. In the case of diagnostic X-ray systems which contain certified components, a copy of the assembler's report prepared in accordance with the requirements of the federal diagnostic X-ray standard (21 CFR 1020.30(d)) shall be submitted to the agency within 15 days following completion of the assembly. Such report shall suffice in lieu of any other report by the assembler.

39.3(10) Reciprocity —out-of-state radiation machines.

a. Whenever any radiation machine is to be brought into the state, for any temporary use, the person proposing to bring such machine into the state shall give written notice to the agency at least three working days before such machine is to be used in the state. The notice shall include:

- (1) The type of radiation machine;
- (2) The nature, duration, and scope of use;
- (3) The exact location(s) where the radiation machine is to be used; and
- (4) States in which this machine is registered.

b. If, for a specific case, the three-working-day period would impose an undue hardship on the person, upon application to the agency, permission to proceed sooner may be granted.

c. The person referred to in 39.3(10)“a” shall:

- (1) Comply with all applicable rules of the agency;
- (2) Supply the agency with such other information as the agency may reasonably request; and
- (3) Not operate within the state on a temporary basis in excess of 180 calendar days in a 365-day reciprocity period. The 365-day reciprocity period starts on the day the agency receives the appropriate fee, as specified in 641—subrule 38.8(8), and ends exactly 365 days later. It is the registrant's responsibility to ensure the 180-day limit is not exceeded during the 365-day reciprocity period and to ensure that the reciprocal recognition is renewed 30 days prior to the expiration of the 365-day reciprocity period.

39.3(11) Exemption. Rescinded IAB 4/8/98, effective 7/1/98.

641—39.4(136C) Requirements for licensing of radioactive materials.

39.4(1) Additional requirements.

a. In addition to the requirements of this chapter, all licensees are subject to the requirements of 641—Chapters 38, 40 and 41. Furthermore, licensees engaged in industrial/nonmedical radiographic operations are subject to the requirements of 641—Chapter 45; licensees using radionuclides in the healing arts are subject to the requirements of 641—41.2(136C) and 641—Chapter 42; and licensees engaged in land disposal of radioactive material are subject to the requirements of 641—Chapter 40.

b. An Iowa radioactive materials license requires that the person have a permanent storage area in Iowa where records are maintained pertaining to licensed activities, equipment maintenance and quality assurance, personnel monitoring, and personnel certification and where material can be stored. The records may be stored on a van, if appropriate. The storage area must be accessible during inspections. An Iowa mailing address is not required.

39.4(2) Source material.

a. Any person is exempt from this chapter to the extent that such person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20 of 1 percent (0.05 percent) of the mixture, compound, solution, or alloy.

b. Any person is exempt from this chapter to the extent that such person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or process such ore.

c. Any person is exempt from this chapter to the extent that such person receives, possesses, uses, or transfers:

- (1) Any quantities of thorium contained in:

1. Incandescent gas mantles,
 2. Vacuum tubes,
 3. Welding rods,
 4. Electric lamps for illuminating purposes, provided that each lamp does not contain more than 50 milligrams of thorium,
 5. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium,
 6. Rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these, or
 7. Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.
- (2) Source material contained in the following products:
1. Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material,
 2. Glassware containing not more than 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction,
 3. Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983, or
 4. Piezoelectric ceramic containing not more than 2 percent by weight source material.
- (3) Photographic film, negatives, and prints containing uranium or thorium.
- (4) Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that this exemption shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such product or part.
- (5) Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of such counterweights, provided that:
1. The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee pursuant to 10 CFR Part 40,
 2. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM,"
 3. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED," and
 4. This exemption shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.
- (6) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:
1. The shipping container is conspicuously and legibly impressed with the legend "CAUTION—RADIOACTIVE SHIELDING—URANIUM," and
 2. The uranium metal is encased in mild steel or equally fire-resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).
- (7) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption shall not be deemed to authorize either:
1. The shaping, grinding, or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens, or
 2. The receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.
- (8) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie of uranium.

(9) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

1. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
2. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- d. The exemptions in 39.4(2) do not authorize the manufacture of any of the products described.
- e. The requirements specified in 39.4(2) “c”(5) “2” and “3” need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights are impressed with the legend, “CAUTION—RADIOACTIVE MATERIAL—URANIUM,” as previously required by the rules.

39.4(3) Radioactive material other than source material.

a. Exempt concentrations.

(1) Except as provided in 39.4(3) “a”(2), any person is exempt from this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in Appendix A of this chapter.

(2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 39.4(3) “a”(1) or equivalent regulations of the U.S. Nuclear Regulatory Commission, or any agreement state, except in accordance with a specific license issued pursuant to 10 CFR 32.11.

(3) An exemption is granted to persons who receive, possess, use, process, transfer, distribute, and dispose of materials containing or contaminated at concentrations less than 20 picocuries per gram of radium.

(4) This rule shall not be deemed to authorize the import of radioactive material or products containing radioactive material.

(5) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license and from these rules to the extent that the manufacturer, processor, or producer transfers radioactive material contained in a product or material in concentrations not in excess of the requirements in Appendix A of this chapter and introduced into the product or material by a licensee holding a specific license issued by the U.S. Nuclear Regulatory Commission expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

b. Exempt quantities.

(1) Except as provided in 39.4(3) “b”(3), (4), and (5), any person is exempt from the requirements for a license and from these rules to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in Appendix B of this chapter.

(2) Any person who possesses radioactive material received or acquired under a general license is exempt from the requirements for a license set forth in this chapter to the extent that such person possesses, uses, transfers or owns such radioactive material.

(3) This paragraph (39.4(3) “b”) does not authorize for purposes of commercial distribution the production, packaging, repackaging or transfer of radioactive material or the incorporation of radioactive material into products intended for commercial distribution.

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Appendix B of this chapter, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under 39.4(3) or equivalent regulations of the U.S. Nuclear Regulatory Commission, any agreement state or licensing state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.18 of 10 CFR 32, which license states that the radioactive material may be transferred by the licensee to persons exempt under 39.4(3) “b” or the equivalent regulations of the U.S. Nuclear Regulatory Commission, an agreement state, or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other

product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in Appendix B of this chapter, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this chapter.

c. Exempt items.

(1) Certain items containing radioactive material. Except for persons who apply radioactive material to or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products containing radioactive material, any person is exempt from the requirements for a license set forth in this chapter and from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:

1. Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified radiation dose rate:

- 25 millicuries (925 MBq) of tritium per timepiece;
- 5 millicuries (185 MBq) of tritium per hand;
- 15 millicuries (555 MBq) of tritium per dial (bezels when used shall be considered as part of the dial);
- 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;
- 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;
- 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial);
- One microcurie (37 kBq) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

2. The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

- For wrist watches, 0.1 millirad (1 μ Gy) per hour at 10 centimeters from any surface.
- For pocket watches, 0.1 millirad (1 μ Gy) per hour at 1 centimeter from any surface.
- For any other timepiece, 0.2 millirad (2 μ Gy) per hour at 10 centimeters from any surface.

3. Precision balances containing not more than 1 millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before December 17, 2007.

4. Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before December 17, 2007.

5. Electron tubes, provided that each tube does not contain more than one of the following specified quantities of radioactive material:

- 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;
- 1 microcurie (37 kBq) of cobalt-60;
- 5 microcuries (185 kBq) of nickel-63;
- 30 microcuries (1.11 MBq) of krypton-85;
- 5 microcuries (185 kBq) of cesium-137; and
- 30 microcuries (1.11 MBq) of promethium-147.

And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed 1 millirad (10 μ Gy) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. For purposes of 39.4(3)“c”(1)“5,” the term “electron tubes” includes spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes,

microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

6. Ionizing radiation measuring instruments, for purposes of internal calibration or standardization, containing one or more sources of radioactive material, provided that:

- Each source contains no more than one exempt quantity set forth in Appendix B of this chapter;
- Each device contains no more than ten exempt quantities. For purposes of this requirement, a device's source(s) may contain either one type of or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Appendix B of this chapter, provided that the sum of such fractions shall not exceed unity; or
- For americium-241, 0.05 microcurie (1.85 kBq) is considered an exempt quantity under 39.4(3) "c"(1) "6."

7. Ionization chamber smoke detectors containing not more than 1 microcurie (μCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

Any person who desires to apply by-product material to, or to incorporate by-product material into, the products exempted in subparagraph 39.4(3) "c"(1), or who desires to initially transfer for sale or distribution such products containing by-product material, should apply for a specific license with the Nuclear Regulatory Commission pursuant to 10 CFR 32.14, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to subparagraph 39.4(3) "c"(1).

(2) Self-luminous products containing radioactive material.

1. Tritium, krypton-85, or promethium-147. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the initial transfer of the product for use under these rules. Any person who desires to manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, or to transfer such products for use according to this paragraph, shall apply for a license which states that the product may be transferred by the licensee to persons exempt from this paragraph. The exemption in 39.4(3) "c"(2) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

2. Radium-226. Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie (3.7 kBq) of radium-226 which were acquired prior to the effective date of these rules.

(3) Gas and aerosol detectors containing radioactive material.

1. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license set forth in this chapter and from the requirements contained in 641—Chapters 38, 40, and 41 to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.26 of 10 CFR Part 32; or a licensing state pursuant to 39.4(29) "c," which authorizes the initial transfer of the product for use under this rule.

2. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state shall be considered exempt under 39.4(3) "c"(3) "1," provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of 39.4(29) "c."

3. Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a licensing state shall be considered exempt under

39.4(3) “c”(3)“1,” provided that the device is labeled in accordance with the specific license authorizing distribution, and provided further that they meet the requirements of 39.4(29) “c.”

4. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing radioactive material, or to initially transfer such products for use pursuant to 39.4(3) “c”(3)“1,” shall apply for a license which states that the product may be initially transferred by the licensee to persons exempt from these rules, the regulations of the U.S. Nuclear Regulatory Commission, or equivalent rules of an agreement state.

(4) Rescinded IAB 7/29/09, effective 9/2/09.

(5) Radioactive drug: capsules containing carbon-14 urea for “in vivo” diagnostic use for humans.

1. Except as provided in paragraphs “b” and “c” of this subrule, any person is exempt from the requirements for a license set forth in this chapter and in 641—41.2(136C) provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq 1 μ Ci carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for “in vivo” diagnostic use for humans.

2. Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to 641—41.2(136C).

3. Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules shall apply for and receive a specific license pursuant to 39.4(20) of this rule.

4. Nothing in this subrule relieves persons from complying with applicable FDA or other federal or state requirements governing receipt, administration, and use of drugs.

39.4(4) to 39.4(19) Reserved.

39.4(20) Types of licenses. There are two types of licenses for radioactive materials: general and specific.

a. General licenses provided in this chapter are effective without the filing of applications with the agency or the issuance of licensing documents to the particular persons, although the filing of a certificate or registration application with the agency may be required by the particular general license. The general licensee is subject to all other applicable portions of these rules and any limitations of the general license.

b. Specific licenses require the submission of an application to the agency and the issuance of a licensing document by the agency. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document.

c. All licensees and registrants must submit the appropriate fee in 641—subrule 38.8(2).

39.4(21) General licenses—source material.

a. A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds (6.82 kg) of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

b. Persons who receive, possess, use, or transfer source material pursuant to the general license issued in 39.4(21) “a” are exempt from the provisions of 641—Chapter 40 to the extent that such receipt, possession, use, or transfer is within the terms of such general license; provided, however, that this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to this chapter.

c. Persons who receive, possess, use, or transfer source material pursuant to the general license in 39.4(21) “a” are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the agency in a specific license.

d. A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use, or transfer source material.

e. Depleted uranium in industrial products and devices.

(1) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of 39.4(21) “e”(2), (3), (4), and (5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in 39.4(21) “e”(1) applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to 39.4(29) “m” or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an agreement state which authorizes manufacture of the products or devices for distribution to persons generally licensed by the U.S. Nuclear Regulatory Commission or an agreement state.

(3) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by 39.4(21) “e”(1) shall file Agency Form “Registration Certificate—Use of Depleted Uranium Under General License” with the agency. The form shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium. The general licensee shall furnish on the Agency Form “Registration Certificate—Use of Depleted Uranium Under a General License” the following information and such other information as may be required by that form:

- Name and address of the general licensee;
- A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in 39.4(21) “e”(1) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and
- Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in 39.4(21) “e”(3) “1.”

2. The general licensee possessing or using depleted uranium under the general license established by 39.4(21) “e”(1) shall report in writing to the agency any changes in information furnished by the general licensee in Agency Form “Registration Certificate—Use of Depleted Uranium Under General License.” The report shall be submitted within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by 39.4(21) “e”(1):

1. Shall not introduce such depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

2. Shall not abandon such depleted uranium;

3. Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of 39.4(41). In the case where the transferee receives the depleted uranium pursuant to the general license established by 39.4(21) “e”(1), the transferor shall furnish the transferee a copy of 641—Chapter 39 and a copy of Agency Form “Registration Certificate—Use of Depleted Uranium Under General License.” In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission’s or agreement state’s regulation equivalent to 39.4(21) “e”(1), the transferor shall furnish the transferee a copy of 641—Chapter 39 and a copy of the Agency Form “Registration Certificate—Use of Depleted Uranium Under General License” accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or agreement state under requirements substantially the same as those in 641—Chapters 38, 39, 40, 41 and 45;

4. Within 30 days of any transfer, shall report in writing to the agency the name and address of the person receiving the depleted uranium pursuant to such transfer; and

5. Shall not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by 39.4(21) “e”(1) is exempt from the requirements of 641—Chapter 40 with respect to the depleted uranium covered by that general license.

39.4(22) General licenses—radioactive material other than source material. This subrule establishes general licenses for the possession and use of radioactive material and a general license for

ownership of radioactive material. (Note: Different general licenses are issued in this subrule, each of which has its own specific conditions and requirements.)

a. Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to Section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of 641—38.4(136C) to 641—38.5(136C), 39.4(3)“*a*”(2), 39.4(32), 39.4(41), 39.4(51), 641—39.5(136C), and 641—Chapter 40. Attention is directed particularly to the provisions of 641—Chapter 40, which relate to the labeling of containers.

(1) Static elimination device. Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device.

(2) Ion generating tube. Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device or a total of not more than 50 millicuries (1.85 GBq) of hydrogen-3 (tritium) per device.

b. Reserved.

c. Reserved.

d. Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.

(1) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and federal, state or local government agencies to acquire, receive, possess, use or transfer, in accordance with the provisions of 39.4(22)“*d*”(2), (3), and (4), radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in 39.4(22)“*d*”(1) applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license by this agency issued under 39.4(29)“*d*”; or an equivalent specific license issued by the NRC or an agreement state or a licensing state; or an equivalent specific license issued by a state with provisions comparable to 39.4(29)“*d*,” which authorizes distribution of the devices. The devices must have been received from one of the specific licensees described in 39.4(22)“*d*”(2) or through a transfer made under 39.4(22)“*d*”(3).

(3) Any person who acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in 39.4(22)“*d*”(1):

1. Shall ensure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

2. Shall ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label;However,

- Devices containing only krypton need not be tested for leakage of radioactive material; and
- Devices containing only tritium or not more than 100 microcuries of other beta- or gamma-emitting material or both or 10 microcuries of alpha-emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

3. Shall ensure that the test required by 39.4(22)“*d*”(3) and other testing, installation, servicing, and removal from installation involving the radioactive material, its shielding or containment are performed:

- In accordance with the instructions provided by the labels; or

- By a person holding a specific license pursuant to 641—39.4(136C), the NRC, an agreement state or a licensing state to perform such activities;

4. Shall maintain records showing compliance with the requirements of 39.4(22)“d”(3). The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installing, servicing, and removing from the installation radioactive material and its shielding or containment. The licensee shall retain these records as follows:

- Each record of a test for leakage or radioactive material required by 39.4(22)“d”(3) must be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

- Each record of a test of the on-off mechanism and indicator required by 39.4(22)“d”(3) must be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of;

- Each record that is required by 39.4(22)“d”(3) must be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

5. Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 Bq) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair such devices that was issued by this agency, the NRC, an agreement state or licensing state. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by this agency. A report containing a brief description of the event and the remedial action taken, and in the case of detection of 0.005 microcurie (185 Bq) or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the agency within 30 days. Under these circumstances, the criteria set out in 641—40.29(136C) may be applicable, as determined by the agency on a case-by-case basis;

6. Shall not abandon the device containing radioactive material;

7. Shall not export the device containing radioactive material except in accordance with 10 CFR Part 110;

8. Shall transfer or dispose of the device containing radioactive material only by export as provided by 39.4(22)“d”(3)“7,” by transfer to another general licensee as authorized in 39.4(22)“d”(3)“9,” to a person authorized to receive the device by a specific license issued by the agency, the NRC, an agreement state or a licensing state whose specific license authorizes the person to receive the device or which authorizes waste collection, or as otherwise approved under 39.4(22)“d”(3):

- Shall furnish a report to this agency within 30 days after the transfer of a device to a specific licensee or export. The report must contain the identification of the device by manufacturer’s (or initial transferor’s) name, model number, and serial number; the name, address and license number of the person receiving the device (license number not applicable if device is exported); and the date of the transfer;

- Shall obtain written agency approval before transferring the device to any other specific licensee not specifically identified in 39.4(22)“d”; however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval if the holder:

- Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

- Removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by 39.4(22)“d”(3)“1”) so that the device is labeled in compliance with 641—40.63(136C) of these rules; however the manufacturer, model number, and serial number must be retained;

- Obtains manufacturer’s or initial transferor’s information concerning maintenance that would be applicable under the specific license (such as leak-testing procedures); and

- Reports the transfer under 39.4(22)“d”(3)“8” of this chapter.

9. Shall transfer the device to another general licensee only if:

- The device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of these rules and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to this agency the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and telephone number of the responsible individual identified by the transferee in accordance with 39.4(22) "d"(3)"12" to have knowledge of and authority to take actions to ensure compliance with the appropriate rules and requirements; or

- The device is held in storage, by an intermediate person, in the original shipping container at its intended location of use prior to initial use by a general licensee;

10. Shall comply with the provisions of 641—40.95(136C) and 641—40.96(136C), but shall be exempt from the other requirements of 641—Chapter 40;

11. Shall respond to written requests from this agency to provide information relating to the general license within 30 calendar days of the date of the request, or other item specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the agency and providing written justification as to why it cannot comply;

12. Shall appoint an individual responsible for having knowledge of the appropriate rules and requirements and the authority for taking required actions to comply with appropriate rules and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate rules and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

13. Shall register as follows:

- Shall register devices as approved in the Sealed Source Device Registry. Each address for a location of use, as described in 39.4(22) "d"(3)"13," represents a separate general licensee and requires a separate registration and fee;

- If in possession of devices meeting the criteria of 39.4(22) "d"(3)"13," shall register these devices annually with the agency and shall pay the fee required in 641—paragraph 38.8(2) "c." Registration must be done by verifying, correcting, and adding to the information provided in a request for registration received from the agency. The registration information must be submitted 30 days from the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of 39.4(22) "d"(3)"13" is subject to the bankruptcy notification requirement of 39.4(32) "e";

- In registering devices, the general licensee shall furnish the following information and any other information specifically requested by the agency:

- Name and mailing address of the general licensee;

- Information about each device: the manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);

- Name, title, and telephone number of the responsible person designated as a representative of the general licensee;

- Address or location at which the device(s) is both used and stored. For portable devices, the address of the primary place of storage;

- Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and check of label information.

- Certification by the responsible representative of the general licensee that the licensee is aware of the requirements of the general license.

- Persons generally licensed by this agency under 39.4(22) "d"(3)"13" or an agreement state are not subject to registration requirements of 39.4(22) "d"(3)"13" if the devices are used in areas subject to this agency's jurisdiction for a period of less than 180 days in any calendar year. The agency will not request registration information from such licensees;

14. Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the agency within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage; and

15. May not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by 39.4(22) "d" need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(4) The general license in 39.4(22) "d"(1) does not authorize the manufacture or import of devices containing radioactive material.

(5) A general license to install devices generally licensed in 39.4(22) "d." Any person who holds a specific license issued by an agreement state authorizing the holder to manufacture, install, or service a device described in 39.4(22) "d" within such agreement state is hereby granted a general license to install and service such device in any non-agreement state and a general license to install and service such device in offshore waters, as defined in 641—45.1(136C), provided that:

1. The device has been manufactured, labeled, installed, and serviced in accordance with the applicable provision of the specific license issued to such person by the agreement state, and

2. Such person ensures that any labels required to be affixed to the device under regulations of the agreement state which licensed manufacture of the device bear a statement that removal of the label is prohibited.

e. Luminous safety devices for aircraft.

(1) A general license is hereby issued to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

1. Each device contains not more than 10 curies (370 GBq) of tritium or 300 millicuries (11.1 GBq) of promethium-147; and

2. Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the agency or any agreement state to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, or use luminous safety devices pursuant to the general license in 39.4(22) "e"(1) are exempt from the requirements of 641—Chapter 40 except that they shall comply with the provisions of 641—40.95(136C) and 40.96(136C).

(3) This general license does not authorize the manufacture, assembly, or repair of luminous safety devices containing tritium or promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of 641—38.4(136C) to 641—38.5(136C), 39.4(32), 39.4(41), 39.4(51), and 641—39.5(136C).

f. Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this chapter, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

g. Calibration and reference sources.

(1) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of 39.4(22) "g"(4) and (5), americium-241 in the form of calibration or reference sources:

1. Any person who holds a specific license issued by the agency which authorizes the person to receive, possess, use, and transfer radioactive material; and

2. Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission which authorizes the person to receive, possess, use, and transfer special nuclear material.

(2) A general license is hereby issued to own, receive, possess, use, and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of 39.4(22) "g"(4) and (5) to

any person who holds a specific license issued by the agency which authorizes the person to receive, possess, use, and transfer radioactive material.

(3) A general license is hereby issued to own, receive, possess, use, and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of 39.4(22)“g”(4) and (5) to any person who holds a specific license issued by the agency which authorizes the person to receive, possess, use, and transfer radioactive material.

(4) The general licenses in 39.4(22)“g”(1), (2), and (3) apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the agency, any agreement state or licensing state pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR Part 32 or Section 70.39 of 10 CFR Part 70.

(5) The general licenses provided in 39.4(22)“g”(1), (2), and (3) are subject to the provisions of 641—38.4(136C) to 641—38.5(136C), 39.4(32), 39.4(41), 39.4(51), 641—39.5(136C), and 641—Chapter 40. In addition, persons who own, receive, acquire, possess, use, or transfer one or more calibration or reference sources pursuant to these general licenses:

1. Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries (185 kBq) of americium-241, 5 microcuries (185 kBq) of plutonium, or 5 microcuries (185 kBq) of radium-226 in such sources;

2. Shall not receive, possess, use, or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, as appropriate:

- The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS (AMERICIUM-241).
(PLUTONIUM) (showing only the name of the appropriate material) DO NOT TOUCH
RADIOACTIVE PORTION OF THIS SOURCE.

Name of manufacturer or importer

OR

- The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of a licensing state. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS RADIUM-226.
DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

Name of manufacturer or importer

3. Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the agency, the U.S. Nuclear Regulatory Commission, an agreement state or a licensing state to receive the source;

4. Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

5. Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium, or radium-226.

h. Reserved.

i. General license for use of radioactive material for certain in vitro clinical or laboratory testing. The New Drug Provisions of the Federal Food, Drug, and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

(1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of 39.4(22)“*i*”(2), (3), (4), (5), and (6), the following radioactive materials in prepackaged units for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

1. Carbon-14, in units not exceeding 10 microcuries (370 kBq) each.
2. Cobalt-57, in units not exceeding 10 microcuries (370 kBq) each.
3. Hydrogen-3 (tritium), in units not exceeding 50 microcuries (1.85 MBq) each.
4. Iodine-125, in units not exceeding 10 microcuries (370 kBq) each.
5. Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (1.85 Bq) of americium-241 each.
6. Iodine-131, in units not exceeding 10 microcuries (370 kBq) each.
7. Iron-59, in units not exceeding 20 microcuries (740 kBq) each.
8. Selenium-75, in units not exceeding 10 microcuries (370 kBq) each.

(2) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by 39.4(22)“*i*”(1) until the person has filed an Agency Form “Certificate—In Vitro Testing with Radioactive Material Under General License” with the agency and received from the agency a validated copy of the form with certification number assigned. The physician, veterinarian, clinical laboratory or hospital shall furnish the following information on the form and such other information as may be required by the form:

1. Name and address of the physician, veterinarian, clinical laboratory or hospital;
2. The location of use; and
3. A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in 39.4(22)“*i*”(1) and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by 39.4(22)“*i*”(1) shall comply with the following:

1. The general licensee shall not possess at any one time, pursuant to the general license in 39.4(22)“*i*”(1), at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59, or cobalt-57 in excess of 200 microcuries (7.4 MBq).
2. The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.
3. The general licensee shall use the radioactive material only for the uses authorized by 39.4(22)“*i*”(1).
4. The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the agency, the U.S. Nuclear Regulatory Commission, any agreement state or licensing state, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.
5. The general licensee shall dispose of the mock iodine-125 reference or calibration sources described in 39.4(22)“*i*”(1)“8” as required by 641—subrule 40.70(1).

(4) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to 39.4(22)“*i*”(1):

1. Except as prepackaged units which are labeled in accordance with the provisions of an applicable specific license issued pursuant to 39.4(29)“*h*” or in accordance with the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, any agreement state or licensing state which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14,

hydrogen-3 (tritium), iron-59, selenium-75, cobalt-57, or mock iodine-125 to persons generally licensed under 39.4(22)“i” or its equivalent, and

2. Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

- This radioactive material shall be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

- This radioactive material shall be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a licensing state.

Name of manufacturer

(5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of 39.4(22)“i”(1) shall report in writing to the agency any changes in the information furnished in the “Certificate—In Vitro Testing with Radioactive Material Under General License,” Agency Form V. The report shall be furnished within 30 days after the effective date of such change.

(6) Any person using radioactive material pursuant to the general license of 39.4(22)“i”(1) is exempt from the requirements of 641—Chapter 40 with respect to radioactive material covered by that general license, except that such persons using the mock iodine-125 described in 39.4(22)“i”(1)“8” shall comply with the provisions of 641—subrule 40.70(1) and rules 40.95(136C) and 40.96(136C).

j. Ice detection devices.

(1) A general license is hereby issued to own, receive, acquire, possess, use, and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries (1.85 MBq) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the agency or an agreement state to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, use, or transfer strontium-90 contained in ice detection devices pursuant to the general license in 39.4(22)“j”(1):

1. Shall, upon occurrence of visually observable damage such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the U.S. Nuclear Regulatory Commission or an agreement state to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of 641—subrule 40.70(1);

2. Shall ensure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

3. Are exempt from the requirements of 641—Chapter 40 except that such persons shall comply with the provisions of 641—subrule 40.70(1), and rules 40.95(136C) and 40.96(136C).

- (3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

(4) This general license is subject to the provisions of 641—38.4(136C) to 641—38.5(136C), 39.4(32), 39.4(41), 39.4(51), and 641—39.5(136C).

k. Certain items and self-luminous products containing radium-226.

(1) A general license is hereby issued to any person to acquire, receive, possess, use, or transfer, in accordance with 39.4(22)“*k*”(2), (3), and (4), radium-226 contained in the following products manufactured prior to November 30, 2007.

1. Antiquities originally intended for use by the general public. For the purposes of this subrule, “antiquities” means products originally intended for use by the general public and distributed in the late nineteenth and early twentieth centuries including, but not limited to, radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.

2. Intact and non-intact timepieces containing greater than 1 microcurie (0.037 megabecquerel), and timepiece hands and dials no longer installed in timepieces.

3. Luminous items installed in air, marine, or land vehicles.

4. All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.

5. Small radium sources containing no more than 1 microcurie (0.037 megabecquerel) of radium-226. For the purposes of this subrule, “small radium sources” means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the agency.

(2) Persons who acquire, receive, possess, use, or transfer by-product material under the general license issued in 39.4(22)“*k*”(1) shall comply with the provisions of 641—40.95(136C) and 641—40.96(136C), but shall be exempt from the other requirements of 641—Chapter 40, to the extent that the receipt, possession, use, or transfer of by-product material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under 39.4(24).

(3) Any person who acquires, receives, possesses, uses, or transfers by-product material in accordance with the general license in 39.4(22)“*k*”(1) shall:

1. Notify the agency if there is any indication of possible damage to the product which could result in a loss of the radioactive material. A report containing a brief description of the event and the remedial action taken must be furnished to the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa, within 30 calendar days.

2. Not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to 641—40.77(136C) or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the agency.

3. Not export products containing radium-226 except in accordance with 10 CFR Part 110.

4. Dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under 39.4(24), or equivalent NRC or agreement state requirements, or as otherwise approved by the agency.

5. Respond in writing to a written request from the agency to provide information relating to the general license within 30 calendar days of the request, or other time specified in the request.

(4) The general license in 39.4(22)“*k*”(1) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

39.4(23) Reserved.

39.4(24) *Filing application for specific licenses.*

a. Applications for specific licenses shall be filed on a form prescribed by the agency and include the fee required in 641—subrule 38.8(2).

b. The agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

c. Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

d. An application for a license may include a request for a license authorizing one or more activities.

e. Applications and documents submitted to the agency may be made available for public inspection except that the agency may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

f. (1) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Appendix G of this chapter, must contain either:

1. An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

2. An emergency plan for responding to a release of radioactive material.

(2) One or more of the following factors may be used to support an evaluation submitted under 39.4(24) "f"(1)"1" of this subrule:

1. The radioactive material is physically separated so that only a portion could be involved in an accident;

2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

3. The release fraction in the respirable size range would be lower than the release fraction shown in Appendix G due to the chemical or physical form of the material;

4. The solubility of the radioactive material would reduce the dose received;

5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Appendix G;

6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Appendix G; or

7. Other factors appropriated for the specific facility.

(3) An emergency plan for responding to a release of radioactive material submitted under 39.4(24) "f"(1)"2" must include the following information:

1. Facility description. A brief description of the licensee's facility and area near the site.

2. Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

3. Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

4. Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

5. Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

6. Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

7. Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the agency; also, responsibilities for developing, maintaining, and updating the plan.

8. Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some equipment will not prevent the notification and coordination. The licensee shall also commit to notify

the agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

9. Information to be communicated. A brief description of the types of information of facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the agency.

10. Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

11. Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

12. Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

13. Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub.L.No. 99-499, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(4) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the agency. The licensee shall provide any comments received within the 60 days to the agency with the emergency plan.

g. An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(1) Identify the source or device by manufacturer and model number as registered with the Nuclear Regulatory Commission under 10 CFR 32.210 or with an agreement state, or for a source or a device containing radium-226 or accelerator-produced radioactive material as registered with a state under provisions comparable to 10 CFR 32.210; or

(2) Contain the information identified in 10 CFR 32.210(c); or

(3) For sources or devices containing naturally occurring or accelerator-produced radioactive material manufactured prior to November 30, 2007, that are not registered with the Nuclear Regulatory Commission under 10 CFR 32.210 or with an agreement state, and for which the applicant is unable to provide all the categories of information specified in 10 CFR 32.210(c), the applicant must provide:

1. All available information identified in 10 CFR 32.210(c) concerning the source and, if applicable, the device; and

2. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a current leak test.

h. An application from a medical facility or an educational institution to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to licensees in the facility's

or educational institution's consortium authorized for medical use under 641—41.2(136C) or equivalent NRC or agreement state requirements shall include:

(1) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under this chapter or equivalent NRC or agreement state requirements for a PET production facility within its consortium from which it receives PET radionuclides.

(2) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in 39.4(29)“j”(1)“2.”

(3) Identification of the individual(s) authorized to prepare the PET radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in 39.4(29)“j”(2)“2.”

(4) Information identified in 39.4(29)“j”(1)“3” on the PET drugs to be noncommercially transferred to members of the facility's consortium.

39.4(25) General requirements for the issuance of specific licenses. A license application will be approved if the agency determines that:

a. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with 641—Chapters 38, 39, 40, 41 and 45 in such a manner as to minimize danger to public health and safety or property;

b. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

c. The issuance of the license will not be inimical to the health and safety of the public; and

d. The applicant satisfies any applicable special requirements in 39.4(26), 39.4(27), 39.4(28), 641—41.2(136C), or 641—Chapter 45.

e. In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, or for the conduct of any other activity which the agency determines will significantly affect the quality of the environment, the agency, before commencement of construction of the plant or facility in which the activity will be conducted, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess radioactive material in such plant or facility. As used in this paragraph, the term “commencement of construction” means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

39.4(26) Financial assurance and record keeping for decommissioning.

a. Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding $1.0E^5$ times the applicable quantities set forth in Appendix F of 641—Chapter 40 shall submit a decommissioning funding plan as described in 39.4(26)“e.” The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix F.

b. (1) Each holder of or applicant for a specific license authorizing possession and use of sealed sources or plated foils of half-life greater than 120 days and in quantities exceeding 10^{12} times the applicable quantities set forth in 39.4(26)“d” (or when a combination of isotopes is involved if R , as defined in 39.4(26)“a,” divided by 10^{12} is greater than 1) shall submit a decommissioning funding plan as described in 39.4(26)“e.”

(2) Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in 39.4(26)“d” shall either:

1. Submit a decommissioning funding plan as described in 39.4(26)“e”; or

2. Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by 39.4(26)“d” using one of the methods described in 39.4(26)“f.” For an applicant,

this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of 39.4(26) "f" must be submitted before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of 39.4(26) "f."

c. (1) Each holder of a specific license issued on or after July 1, 1993, which is of a type described in 39.4(26) "a" or "b," shall provide financial assurance for decommissioning in accordance with the criteria set forth in this subrule.

(2) Each holder of a specific license issued before July 1, 1993, and of a type described in 39.4(26) "a," shall submit, on or before January 1, 2007, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount at least equal to \$1,125,000 in accordance with the criteria set forth in this subrule. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal.

(3) Each holder of a specific license issued before September 30, 1992, and of a type described in 39.4(26) "b," shall submit, on or before July 1, 1993, a certificate of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this subrule.

(4) Any licensee who submitted an application before July 1, 2003, for renewal of license shall provide financial assurance for decommissioning in accordance with 39.4(26) "a" and "b."

(5) Waste collectors and waste processors must provide financial assurance in an amount based on a decommissioning funding plan as described in 39.4(26) "e." The decommissioning funding plan must include the cost of disposal of the maximum amount (curies) of radioactive material permitted by license, and the cost of disposal of the maximum quantity, by volume, of radioactive material which could be present at the licensee's facility at any time, in addition to the cost to remediate the licensee's site to meet the license termination criteria of 641—Chapters 39 and 40.

d. Table of required amounts of financial assurance for decommissioning by quantity of material.

Greater than 10⁴ but less than or equal to 10⁵ times the applicable quantities of Appendix F of 641—Chapter 40 in unsealed form. (For a combination of isotopes, if R, as defined in 39.4(26) "a," divided by 10⁴ is greater than 1, but R divided by 10⁵ is less than or equal to 1.) 1,125,000

Greater than 10³ but less than or equal to 10⁴ times the applicable quantities of Appendix F of 641—Chapter 40 in unsealed form. (For a combination of isotopes, if R, as defined in 39.4(26) "a," divided by 10³ is greater than 1, but R divided by 10⁴ is less than or equal to 1.) 225,000

Greater than 10¹⁰ but less than or equal to 10¹² times the applicable quantities of Appendix F or 641—Chapter 40 in sealed sources or plated foils. (For a combination of isotopes, if R, as defined in 39.4(26) "a," divided by 10¹⁰ is greater than 1, but R divided by 10¹² is less than or equal to 1.) 113,000

Licensees having possession limits exceeding the upper bounds of this table must base financial assurance on a decommissioning funding plan

e. Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from 39.4(26) “*f*,” including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates must be adjusted at intervals not to exceed three years. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate and a signed original of the financial instrument obtained to satisfy the requirements of 39.4(26) “*f*.”

f. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee’s administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix F of this chapter. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this subrule. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix H of this chapter. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix I of this chapter. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix J of this chapter. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of paragraph 39.4(26) “*f*” or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

1. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the agency, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the agency within 30 days after receipt of notification of cancellation.

2. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the agency. An acceptable trustee includes an appropriate state or federal government agency or an entity which has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

3. The surety method or insurance must remain in effect until the agency has terminated the license.

(3) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee’s administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in 39.4(26) “*f*”(2).

(4) In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on the table in 39.4(26) "d," and indicating that funds for decommissioning will be obtained when necessary.

(5) When a governmental entity assumes custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

g. Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is released for unrestricted use. Before licensed activities are transferred or assigned to another licensee, the licensee shall transfer all records described in this subrule to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning consists of:

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used, stored, or both, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(4) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years, of the following:

1. All areas designated as restricted areas as defined under 641—38.2(136C);
2. All areas outside of restricted areas that require documentation under 641—39.4(26) "g"(1);
3. All areas outside of restricted areas where current and previous wastes have been buried as documented under 641—40.88(136C); and
4. All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal in accordance with 641—40.71(136C).

39.4(27) *Special requirements for issuance of certain specific licenses for radioactive material.*

a. to d. Reserved.

e. Use of sealed sources in industrial radiography. In addition to the requirements set forth in 39.4(25), a specific license for use of sealed sources in industrial radiography will be issued if the application contains:

- (1) A schedule or description of the program for training radiographic personnel which specifies:
 1. Initial training,
 2. Periodic training,
 3. On-the-job training, and
 4. Methods to be used by the licensee to determine the knowledge, understanding, and ability of radiographic personnel to comply with agency rules, licensing requirements, and the operating and emergency procedures of the applicant;
- (2) Written operating and emergency procedures, including all items listed in Appendix D of 641—Chapter 45;

(3) A description of the internal inspection system or other management control to ensure that radiographic personnel follow license provisions, rules of the agency, and the applicant's operating and emergency procedures;

(4) A list of permanent radiographic installations and descriptions of permanent storage and use locations. Radioactive material shall not be stored at a permanent storage location or used at a permanent use location unless such storage or use location is specifically authorized by the license. A storage or use location is permanent if radioactive material is stored at the location for more than 90 days and any of the following applies to the location:

1. Non-wireless telephone service is established by the licensee;
2. Industrial radiographic services are advertised for or from the location;
3. Industrial radiographic operations are conducted at other sites due to arrangements made from the location;

(5) A description of the organization of the industrial radiographic program, including delegations of authority and responsibility for operation of the radiation safety program;

(6) A description of the program for inspection and maintenance of radiographic exposure devices and transport and storage containers (including applicable items in 641—subrule 45.1(8) and 641—Chapter 45, Appendix A); and

(7) If a license application includes underwater radiography, a description of:

1. Radiation safety procedures and radiographer responsibilities unique to the performance of underwater radiography;
2. Radiographic equipment and radiation safety equipment unique to underwater radiography; and
3. Methods for gas-tight encapsulation of equipment;

(8) If a license application includes offshore platform or lay-barge radiography, a description of:

1. Transport procedures for radioactive material to be used in industrial radiographic operations;
2. Storage facilities for radioactive material; and
3. Methods for restricting access to radiation areas.

39.4(28) *Special requirements for specific licenses of broad scope.* This subrule prescribes requirements for the issuance of specific licenses of broad scope for radioactive material and certain rules governing holders of such licenses. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

a. The different types of broad scope licenses are set forth below:

(1) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the multicurie range.

(2) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in Appendix D of this chapter, for any authorized purpose. The possession limit for a Type B license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Appendix D, Column I. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: for each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in Appendix D, Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(3) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use, and transfer of any chemical or physical form of radioactive material specified in Appendix D of this chapter, for any authorized purpose. The possession limit for a Type C license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in Appendix D, Column II. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: for each radionuclide, determine the ratio of the

quantity possessed to the applicable quantity specified in Appendix D, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

b. An application for a Type A specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in 39.4(25);

(2) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(3) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to ensure safe operations, including:

1. The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

2. The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

3. The establishment of appropriate administrative procedures to ensure:

- Control of procurement and use of radioactive material;

- Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

- Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with 39.4(28) “b”(3)“3” prior to use of the radioactive material.

c. An application for a Type B specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in 39.4(25); and

(2) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to ensure safe operations, including:

1. The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters, and

2. The establishment of appropriate administrative procedures to ensure:

- Control of procurement and use of radioactive material;

- Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

- Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with 39.4(28) “c”(2)“2” prior to use of the radioactive material.

d. An application for a Type C specific license of broad scope will be approved if:

(1) The applicant satisfies the general requirements specified in 39.4(25).

(2) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:

1. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

2. At least 40 hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used.

(3) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, record keeping, material control and accounting, and management review necessary to ensure safe operations.

e. Specific licenses of broad scope are subject to the following conditions:

(1) Unless specifically authorized, persons licensed pursuant to 39.4(28) shall not:

1. Conduct tracer studies in the environment involving direct release of radioactive material;

2. Receive, acquire, own, possess, use, or transfer devices containing 100,000 curies (3.7 PBq) or more of radioactive material in sealed sources used for irradiation of materials;

3. Conduct activities for which a specific license issued by the agency under 39.4(27), 39.4(29) or 641—41.2(136C) is required; or

4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.

(2) Each Type A specific license of broad scope issued under this chapter shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee’s radiation safety committee.

(3) Each Type B specific license of broad scope issued under this chapter shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee’s radiation safety officer.

(4) Each Type C specific license of broad scope issued under this chapter shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of 39.4(28) “d.”

39.4(29) Special requirements for a specific license to manufacture, assemble, repair, or distribute commodities, products, or devices which contain radioactive material.

a. Rescinded IAB 7/29/09, effective 9/2/09.

b. Rescinded IAB 3/30/05, effective 5/4/05.

c. Rescinded IAB 7/29/09, effective 9/2/09.

d. Licensing the manufacture and distribution of devices to persons generally licensed under 39.4(22) “d.”

(1) An application for a specific license to manufacture or initially transfer devices containing radioactive material, excluding special nuclear material, to persons generally licensed under 39.4(22) “d” or equivalent regulations of the NRC, an agreement state, or a licensing state will be approved if:

1. The applicant satisfies the general requirements of 39.4(25);

2. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

- The device can be safely operated by persons not having training in radiological protection,
- Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of one year a dose in excess of 10 percent of the annual limits specified in 641—40.15(136C); and
- Under accident conditions such as fire and explosion associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye 15 rems (150 mSv)

Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter 200 rems (2 Sv)

Other organs 50 rems (500 mSv)

3. Each device bears a durable, legible, clearly visible label or labels approved by the agency, NRC, or agreement state or licensing state, which contains in a clearly identified and separate statement:

- Instructions and precautions necessary to ensure safe installation, operation, and servicing of the device. Documents such as operating and service manuals may be identified in the label and used to provide this information;
- The requirement, or lack of requirement, for leak testing, or for testing any “on-off” mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
- The information called for in one of the following statements, as appropriate, in the same or substantially similar form:

The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, (devices licensed prior to January 19, 1975, may bear labels authorized by the rules in effect on January 1, 1975)(the model, serial number, and name of the manufacturer or initial transferor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device) are subject to a general license or the equivalent and the chapter of the U.S. Nuclear Regulatory Commission or a state with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION—RADIOACTIVE MATERIAL

Name of manufacturer or initial transferor

4. Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words “Caution—Radioactive Material,” the radiation symbol described in 641—subrule 40.60(1), and the name of the manufacturer or initial distributor; and

5. Each device meeting the criteria of 39.4(22) “d”(3) “13” bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, “Caution—Radioactive Material,” and, if practicable, the radiation symbol described in 641—subrule 40.60(1).

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the “on-off” mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the “on-off” mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the agency will consider information which includes, but is not limited to:

1. Primary containment or source capsule;
2. Protection of primary containment;
3. Method of sealing containment;
4. Containment construction materials;
5. Form of contained radioactive material;
6. Maximum temperature withstood during prototype tests;
7. Maximum pressure withstood during prototype tests;
8. Maximum quantity of contained radioactive material;
9. Radiotoxicity of contained radioactive material; and
10. Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under 39.4(22) “d,” or under equivalent regulations of the NRC, an agreement state, or a licensing state be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the “on-off” mechanism and indicator, or remove the device from installation,

the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in 641—40.15(136C).

(4) Information to be provided before transfer.

1. If a device containing radioactive material is to be transferred for use under the general license contained in 39.4(22)“d,” each person that is licensed under 39.4(22)“d” shall provide the information specified to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

- A copy of the general license contained in 39.4(22), or if 39.4(22)“d”(3)“2,” “3,” or “4” or 39.4(22)“d”(3)“13” does not apply to the particular device, those paragraphs may be omitted;
- A copy of 39.4(20), 39.4(52), 641—40.95(136C), and 641—40.96(136C);
- A list of the services that can only be performed by a specific licensee;
- Information on acceptable disposal options including estimated costs of disposal; and
- An indication that it is the policy of the NRC and this agency to issue high civil penalties for improper disposal.

2. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or an agreement state, each person that is licensed under 39.4(29)“d” shall provide the information specified in this paragraph to each person to whom a device is to be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

- A copy of the NRC or agreement state’s rules equivalent to 39.4(29)“d.” If a copy of the NRC regulations is provided to a prospective general licensee in lieu of the agreement state’s regulations, it shall be accompanied by a note explaining that use of the device is regulated by the agreement state; if certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;
- A list of the services that can only be performed by a specific licensee;
- Information on acceptable disposal options including estimated costs of disposal; and
- The name or title, address, and telephone number of the contact at the agreement state regulatory agency from which additional information may be obtained.

3. An alternative approach to informing customers may be proposed by the licensee for approval by the agency.

4. Each device that is transferred after February 19, 2002, must meet the labeling requirements in 39.4(29)“d.”

5. If a notification of bankruptcy has been made or the license is to be terminated, each person licensed under 39.4(29)“d” shall provide, upon request, to the NRC and to any appropriate agreement state, records of final disposition.

(5) Transfer reports and records. Each person licensed under 39.4(29)“d” to initially transfer devices to generally licensed persons shall comply with the requirements of this subparagraph.

1. The person shall report all transfers of devices to persons for use under the general license in 39.4(29)“d” and all receipts of devices from persons licensed under 39.4(29)“d” to the NRC, this agency, or another agreement state. The report must be submitted on a quarterly basis in a clear and legible report containing all of the data required in this subrule. The required information for transfers to general licensees includes:

- The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternate address for the general licensee shall be submitted along with information on the actual location of use;

- The name, title, and telephone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate rules and requirements;

- The date of transfer;
- The type, model number, and serial number of the device transferred; and
- The quantity and type of radioactive material contained in the device.

2. If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

3. For devices received from a general licensee, the report must include the identity of the general licensee by name and address; the type, model number, and serial number of the device received; the date of receipt; and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

4. If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update the required information, the report must identify the general licensee, the device, and the changes to information on the device label.

5. The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

6. The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

7. If no transfers have been made to or from persons generally licensed under 39.4(29) "d" during the reporting period, the report must so indicate.

(6) The person shall maintain all information concerning transfers and receipts of devices that supports the reports required by 39.4(29) "d." Records required in 39.4(29) "d" must be maintained for three years following the date of the recorded event.

e. Special requirements for the manufacture, assembly, or repair of luminous safety devices for use in aircraft. An application for a specific license to manufacture, assemble, or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under 39.4(22) "e," will be approved if:

- (1) The applicant satisfies the general requirements specified in 39.4(25); and
- (2) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, 32.56, and 32.101 of 10 CFR Part 32, or their equivalent.

f. An application for a specific license to manufacture or initially transfer calibration or reference sources containing americium-241 or radium-226 for distribution to persons generally licensed under 39.4(22) "g" will be approved if:

- (1) The applicant satisfies the general requirements of 39.4(25);
- (2) The applicant submits sufficient information regarding each type of calibration or reference source pertinent to evaluation of the potential radiation exposure, including:

1. Chemical and physical form and maximum quantity of americium-241 or radium-226 in the source;

2. Details of construction and design;

3. Details of the method of incorporation and binding of the americium-241 or radium-226 in the source;

4. Procedures for and the results of prototype testing of sources, which are designed to contain more than 0.005 microcuries of americium-241 or radium-226, to demonstrate that the americium-241 or radium-226 contained in each source will not be released or be removed from the source under normal conditions of use;

5. Details of quality control procedures to be followed in the manufacture of the source;

6. Description of labeling to be affixed to the source or storage container for the source;

7. Any additional information, including experimental studies and tests, required by the agency to facilitate a determination of the safety of the source.

- (3) Each source contains no more than 5 microcuries of americium-241 or radium-226.

(4) The agency determines, with respect to any type of source containing more than 0.005 microcuries of americium-241 or radium-226, that:

1. The method of incorporation and binding of the americium-241 or radium-226 in the source is such that the americium-241 or radium-226 will not be released or be removed from the source under normal conditions of use and handling of the source; and

2. The source has been subjected to and has satisfactorily passed the prototype tests prescribed by 10 CFR Part 32.102, Schedule C.

(5) Each person licensed under this subrule affixes to each source, or storage container for the source, a label in accordance with 10 CFR Part 32.58.

(6) Each person licensed under this subrule conducts a leak test on sealed sources in accordance with 10 CFR Part 32.59.

g. Reserved.

h. Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of 39.4(22) "i" will be approved if:

(1) The applicant satisfies the general requirements specified in 39.4(25).

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

1. Carbon-14 in units not exceeding 10 microcuries (370 kBq) each.

2. Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each.

3. Iodine-125 in units not exceeding 10 microcuries (370 kBq) each.

4. Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each.

5. Iodine-131 in units not exceeding 10 microcuries (370 kBq) each.

6. Iron-59 in units not exceeding 20 microcuries (740 kBq) each.

7. Selenium-75 in units not exceeding 10 microcuries (370 kBq) each.

8. Cobalt-57 in units not exceeding 10 microcuries (370 kBq) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

1. Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; and

2. Displaying the radiation caution symbol described in 641—subrule 40.60(1) and the words, "CAUTION—RADIOACTIVE MATERIAL," and "Not for Internal or External Use in Humans or Animals."

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

1. This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or an agreement state.

Name of manufacturer

2. Rescinded IAB 3/30/05, effective 5/4/05.

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in 641—subrule 40.70(1).

i. Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture or initially transfer ice detection devices containing strontium-90 to persons generally licensed under 39.4(22)“*j*” will be approved if the applicant satisfies the general requirements of 39.4(25) and the criteria of Sections 32.61, 32.62, and 32.103 of 10 CFR Part 32.

j. Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing by-product material for medical use under 641—41.2(136C).

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs containing by-product material for use by persons authorized pursuant to 641—41.2(136C) will be approved if:

1. The applicant satisfies the general requirements specified in subrule 39.4(25);

2. The applicant submits evidence that the applicant is at least one of the following:

- Registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);
- Registered or licensed with a state agency as a drug manufacturer;
- Licensed by the Iowa board of pharmacy as a nuclear pharmacy;
- Operating as a nuclear pharmacy within a federal medical institution; or
- A positron emission tomography (PET) drug production facility registered or licensed with a state agency;

3. The applicant submits information on the radionuclide: the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

4. The applicant satisfies the following labeling requirements:

- A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL” or “DANGER, RADIOACTIVE MATERIAL”; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half-life greater than 100 days, the time may be omitted.

- A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL” or “DANGER, RADIOACTIVE MATERIAL” and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee as described by 39.4(29)“*j*”(1)“2”:

1. May prepare radioactive drugs for medical use, as defined in 641—38.2(136C), provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in 39.4(29)“*j*”(2)“2” and 39.4(29)“*j*”(2)“3” or an individual under the supervision of an authorized nuclear pharmacist as specified in 641—paragraph 41.2(11)“*c.*”

2. May allow a pharmacist to work as an authorized nuclear pharmacist if:

- This individual qualifies as an authorized nuclear pharmacist as defined in 641—subrule 41.2(2),

- This individual meets the requirements specified in 641—subrules 41.2(77) and 41.2(78) and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist, or

- This individual is designated as an authorized nuclear pharmacist in accordance with 39.4(29)“*j*”(2)“3.”

3. May designate a pharmacist (as defined in 641—subrule 41.2(2)) as an authorized nuclear pharmacist if the individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material and the individual practiced at a pharmacy at a government

agency or federally recognized Indian tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC.

4. Shall permit the actions authorized in 39.4(29) "j"(2)"1" and "2" that are permitted in spite of more restrictive language in license conditions.

5. Shall provide to the agency a copy of each individual's:

- Certification by a specialty board whose certification process has been recognized by the NRC or an agreement state as specified in 641—paragraph 41.2(78) "a" with the written attestation signed by a preceptor as required by 641—paragraph 41.2(78) "c"; or

- NRC or agreement state license; or

- NRC master materials licensee permit; or

- Permit issued by a licensee or NRC master materials permittee of broad scope or authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

- Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

- State pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to 39.4(29) "j"(2)"2," first and third bulleted paragraphs, the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

1. Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument, and make adjustments when necessary; and

2. Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this subrule relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.

k. Manufacture and distribution of generators or reagent kits for preparation of radiopharmaceuticals containing radioactive material. Although the agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material who desires to have their reagent kits approved by the agency for use by persons licensed pursuant to 641—subrule 41.2(33) may submit the pertinent information specified in 39.4(29) "k." An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed pursuant to this chapter for the uses listed in 641—subrule 41.2(33) will be approved if:

- (1) The applicant satisfies the general requirements specified in 39.4(25);

- (2) The applicant submits evidence that:

1. The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA, or

2. The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;

- (3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;

- (4) The label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of assay; and

(5) The label affixed to the generator or reagent kit, or the leaflet or brochure which accompanies the generator or reagent kit, contains:

1. Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit, and

2. A statement that this generator or reagent kit, as appropriate, is approved for use by persons licensed by the agency pursuant to 641—subrule 41.2(33) or under equivalent licenses of the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The labels, leaflets, or brochures required by 39.4(29)“k” are in addition to the labeling required by the Food and Drug Administration (FDA) and they may be separate from or, with the approval of the FDA, may be combined with the labeling required by the FDA.

l. Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 641—41.2(136C) for use as a calibration, transmission, or reference source or for the uses listed in 641—subrules 41.2(41), 41.2(43), 41.2(49), and 41.2(88) will be approved if:

(1) The applicant satisfies the general requirements in 39.4(25);

(2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

1. The radioactive material contained, its chemical and physical form, and amount,
2. Details of design and construction of the source or device,
3. Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents,
4. For devices containing radioactive material, the radiation profile of a prototype device,
5. Details of quality control procedures to ensure that production sources and devices meet the standards of the design and prototype tests,
6. Procedures and standards for calibrating sources and devices,
7. Legend and methods for labeling sources and devices as to their radioactive content, and
8. Instructions for handling and storing the source or device from the radiation safety standpoint.

These instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device, provided that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, and date of assay, and a statement that the NRC, agreement state, or this agency has approved distribution of the source or device to persons licensed to use by-product material identified in 641—41.2(136C) and 641—subrules 41.2(41) and 41.2(43), as appropriate, and to persons who hold an equivalent license issued by the NRC or an agreement state;

(4) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(5) In determining the acceptable interval for test of leakage of radioactive material, the agency will consider information that includes, but is not limited to:

1. Primary containment or source capsule,
2. Protection of primary containment,
3. Method of sealing containment,
4. Containment construction materials,
5. Form of contained radioactive material,
6. Maximum temperature withstood during prototype tests,
7. Maximum pressure withstood during prototype tests,

8. Maximum quantity of contained radioactive material,
9. Radiotoxicity of contained radioactive material, and
10. Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

m. Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass-volume applications.

(1) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to 39.4(21)“*d*” or equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state will be approved if:

1. The applicant satisfies the general requirements specified in 39.4(25);
2. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in 641—40.15(136C) of these rules; and

3. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the agency will approve an application for a specific license under 39.4(29)“*m*” only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The agency may deny any application for a specific license under 39.4(29)“*m*” if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to 39.4(29)“*m*”(1) shall:

1. Maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;
2. Label or mark each unit to:
 - Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
 - State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an agreement state;

3. Ensure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: “Depleted Uranium”

4. Furnish a copy of the general license contained in 39.4(21)“*d*” and a copy of the agency form used to register the device to each person to whom the person transfers depleted uranium in a product or device for use pursuant to the general license contained in 39.4(21)“*d*,” or furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission’s or agreement state’s regulation equivalent to 39.4(21)“*d*” and a copy of the U.S. Nuclear Regulatory Commission’s or agreement state’s certificate, or alternatively, furnish a copy of the general license contained in 39.4(21)“*d*” and a copy of the agency form used to register to each person to whom the person transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an agreement state, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an agreement state under requirements substantially the same as those in 39.4(21)“*d*”;

5. Report to the agency all transfers of industrial products or devices to persons for use under the general license in 39.4(21)“*d*.” Such report shall identify each general licensee by name and address,

an individual by name and position who may constitute a point of contact between the agency and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under 39.4(21) "d" during the reporting period, the report shall so indicate;

6. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in Section 40.25 of 10 CFR Part 40; and shall report to the responsible state agency all transfers of devices manufactured and distributed pursuant to 39.4(29) "m" for use under a general license in that state's regulations equivalent to 39.4(21) "d." Such report shall identify each general licensee by name and address, an individual by name and position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission. If no transfers have been made to general licensees within a particular agreement state during the reporting period, this information shall be reported to the responsible agreement state agency upon the request of that agency; and

7. Keep records showing the name, address, and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in 39.4(21) "d" or equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of 641—Chapters 39 and 40.

n. Rescinded IAB 7/29/09, effective 9/2/09.

o. Acceptance sampling procedures under certain specific licenses. A random sample shall be taken from each inspection lot of devices licensed under 39.4(29) for which testing is required and meet the requirements pursuant to 10 CFR 32.110.

39.4(30) Reserved.

39.4(31) *Issuance of specific licenses.*

a. Upon a determination that an application meets the requirements of the Iowa Code and the rules of the agency, the agency will issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

b. The agency may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation, or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to this chapter as it deems appropriate or necessary in order to:

- (1) Minimize danger to public health and safety or property;
- (2) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be appropriate or necessary; and
- (3) Prevent loss or theft of material subject to this chapter.

c. Specific license for industrial radiography. An application for a specific license for the use of licensed material in industrial radiography will be approved if the applicant meets the following requirements:

- (1) The applicant satisfies the general requirements specified in 39.4(25).
- (2) The applicant submits an adequate program for training radiographers and radiographers' assistants that meets the requirements of 641—subrule 45.1(10).
- (3) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid.

(4) The applicant submits written operating and emergency procedures as described in 641—subrule 45.2(4).

(5) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed six months as described in 641—subrule 45.1(11).

(6) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation responsibilities in industrial radiography, including specified delegation of authority and responsibility.

(7) The applicant identifies and lists the qualifications of the individual(s) designated as the RSO (641—paragraph 45.1(10)“d”) and potential designees responsible for ensuring that the licensee's radiation safety program is implemented in accordance with approved procedures.

(8) If an applicant intends to perform leak testing of sealed sources or exposure devices containing depleted uranium (DU) shielding, the applicant must describe the procedures for performing and the qualifications of the person(s) authorized to do the leak testing. If the applicant intends to analyze its own wipe samples, the application must include a description of the procedures to be followed. The description must include the instruments to be used, methods of performing the analysis, and pertinent experience of the person who will analyze the wipe samples.

(9) If the applicant intends to perform “in-house” calibrations of survey instruments, the applicant must describe the methods to be used and the relevant experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 641—subrule 45.1(5).

(10) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations.

(11) The applicant identifies the locations where all records required by 641—Chapters 38, 39, 40, and 45 will be located.

d. Specific licenses for well logging. The agency will approve an application for a specific license for the use of licensed material in well logging if the applicant meets the following requirements:

(1) The applicant shall satisfy the general requirements specified in 39.4(25) and all other requirements in 641—Chapter 39, as appropriate, and any special requirements contained in 39.4(31)“d.”

(2) The applicant shall develop a program for training logging supervisors and logging assistants and submit to the agency a description of this program which specifies the following:

1. Initial training;
2. On-the-job training;
3. Annual safety reviews provided by the licensee;
4. The means the applicant will use to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the agency's regulations and licensing requirements and the applicant's operating and emergency procedures; and
5. The means the applicant will use to demonstrate the logging assistant's knowledge and understanding of and ability to comply with the applicant's operating and emergency procedures.

(3) The applicant shall submit to the agency written operating and emergency procedures as described in 641—subrule 45.6(16) or an outline or summary of the procedures that includes the important radiation safety aspects of the procedures.

(4) The applicant shall establish and submit to the agency its program for annual inspections of the job performance of each logging supervisor to ensure that the agency's regulations and license requirements and the applicant's operating and emergency procedures are followed. Inspection records must be retained for three years after each annual internal inspection.

(5) The applicant shall submit a description of its overall organizational structure as the organizational structure applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.

(6) If an applicant wants to perform leak testing of sealed sources, the applicant shall identify the manufacturers and the model numbers of the leak test kits to be used. If the applicant wants to analyze

its own wipe samples, the applicant shall establish procedures to be followed and submit a description of these procedures to the agency. The description must include the instruments to be used, methods of performing the analysis, and pertinent experience of the person who will analyze the wipe samples.

39.4(32) *Specific terms and conditions of licenses.*

a. Each license issued pursuant to this chapter shall be subject to all the provisions of the Iowa Code, now or hereafter in effect, and to all rules, regulations, and orders of the agency.

b. No license issued or granted under this chapter and no right to possess or utilize radioactive material granted by any license issued pursuant to this chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Iowa Code, now or hereafter in effect, and to all valid rules, regulations, and orders of the agency, and shall give its consent in writing.

c. Each person licensed by the agency pursuant to this chapter shall confine use and possession of the material licensed to the locations and purposes authorized in the license.

d. Each licensee shall notify the agency in writing when the licensee decides to permanently discontinue all activities involving materials authorized under the license.

e. Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with 641—subrule 41.2(34). The licensee shall record the results of each test and retain each record for three years after the record is made.

f. Each general licensee that is required to register by 39.4(21) or 39.4(22) and each specific licensee shall notify the agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

- (1) The licensee;
- (2) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or
- (3) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

The notification specified in 39.4(32)“*f*” shall indicate the bankruptcy court in which the petition for bankruptcy was filed and the date of the filing of the petition.

g. (1) Authorization under 39.4(29)“*h*” to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in the licensee’s consortium does not relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.

(2) Each licensee authorized under 39.4(29)“*h*” to produce PET radioactive drugs for noncommercial transfer to medical use licensees in the licensee’s consortium shall:

1. Satisfy the labeling requirements in 39.4(29)“*j*”(1)“4” for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of the licensee’s consortium.

2. Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of the licensee’s consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in 39.4(29)“*j*”(3).

(3) A licensee that is a pharmacy authorized under 39.4(24)“*h*” to produce PET radioactive drugs for noncommercial transfer to medical use licensees in the pharmacy’s consortium shall require that any individual who prepares PET radioactive drugs shall be:

1. An authorized nuclear pharmacist who meets the requirements in 39.4(29)“*j*”(2)“2,” or
2. An individual under the supervision of an authorized nuclear pharmacist as specified in 641—subrule 41.2(11).

(4) A pharmacy authorized under 39.4(29) "j" to produce PET radioactive drugs for noncommercial transfer to medical use licensees in the pharmacy's consortium that allows an individual to work as an authorized nuclear pharmacist shall meet the requirements in 39.4(29) "j"(2)"5."

39.4(33) *Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.*

a. Each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 39.4(33) not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the agency makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

b. Each specific license revoked by the agency expires at the end of the day on the date of the agency's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by agency order.

c. Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of by-product material until the agency notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(1) Limit actions involving by-product material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release in accordance with state of Iowa requirements.

d. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the agency in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with the state of Iowa requirements, or submit within 12 months of notification a decommissioning plan, if required by 39.4(33) "j" and begin decommissioning upon approval of that plan if:

(1) The license has expired pursuant to 39.4(33) "a" or "b";

(2) The licensee has decided to permanently cease principal activities, as defined in 641—38.2(136C) at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with state of Iowa requirements;

(3) No principal activities under the license have been conducted for a period of 24 months; or

(4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area suitable for release in accordance with State of Iowa requirements.

e. Coincident with the notification required by 39.4(33) "d," the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to subrule 39.4(26) in conjunction with a license issuance or renewal or as required by this subrule. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph 39.4(33) "g."

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective on July 9, 1997.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the agency.

f. The agency may grant a request to extend the time periods established in 39.4(33) "d" if the agency determines that this request is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to 39.4(33) "d." The schedule for decommissioning set forth in 39.4(33) "d" of this subrule may not commence until the agency has made a determination on the request.

g. A decommissioning plan must be submitted if required by license conditions or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have

not been previously approved by the agency and these procedures could increase the potential health and safety impacts to workers or to the public.

(1) Procedures having potential health and safety impacts include, but are not limited to:

1. Procedures that would involve techniques not applied routinely during cleanup or maintenance operations;

2. Workers that would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

3. Procedures that could result in significantly greater airborne concentrations of radioactive material than are present during operation;

4. Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The agency may approve an alternate schedule for submittal of a decommissioning plan required pursuant to 39.4(33)“d” of this subrule if the agency determines that the alternate schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) Procedures such as those listed in 39.4(33)“g” with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

1. A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

2. A description of planned decommissioning activities;

3. A description of the methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

4. A description of the planned final radiation survey; and

5. An updated detailed cost estimate for decommissioning, and a plan for ensuring the availability of adequate funds for completion of decommissioning.

6. A description of the physical security plan and material control and accounting plan provisions in place during decommissioning.

7. For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan shall include justification for the delay based on the criteria in paragraph “i” of this subrule.

(5) The proposed decommissioning plan will be approved by the agency if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

h. Except as provided in 39.4(33)“i,” licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning. When the decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

i. The agency may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the agency determines that the alternative is warranted by consideration of the following:

(1) It is technically feasible to complete decommissioning within the allotted 24-month period;

(2) Sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(3) A significant volume reduction exposure to workers can be achieved by allowing short-lived radionuclides to decay;

(4) A significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the agency may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment

activities, monitored natural groundwater restoration, actions that could result in more environmental harm than a deferred cleanup, and other factors beyond the controls of the licensee.

j. As the final step in decommissioning, the licensee shall:

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed IDPH Form 588-2793 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 641—40.28(136C) through 641—40.31(136C). The licensee shall, as appropriate:

1. Report levels of gamma radiation in units of millisieverts (microroentgen) per hour at one meter from surfaces, and report the level of radioactivity, including alpha and beta, in units of disintegrations per minute or microcuries (megabecquerels) per 100 square centimeters (removable and fixed) for surfaces, microcuries (megabecquerels) per liter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

2. Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

k. Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the agency determines that:

(1) By-product material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3) A radiation survey has been performed which demonstrates that the premises are suitable for release or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 641—40.28(136C) through 641—40.31(136C).

(4) Records required by 39.4(52) “*e*” and 39.4(52) “*g*” have been received.

l. Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the agency:

(1) Disposal of licensed material (including burials authorized before January 28, 1981), made under 641—40.71(136C) through 40.74(136C); and

(2) Records required by 641—paragraph 40.82(2) “*d*.”

m. If licensed activities are transferred or assigned in accordance with 39.4(32) “*b*,” each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(1) Records of disposal of licensed material (including burials authorized before January 28, 1981), made under 641—40.71(136C) through 40.74(136C); and

(2) Records required by 641—paragraph 40.82(2) “*d*.”

n. Prior to license termination, each licensee shall forward the records required by 39.4(26) “*g*” to the agency.

39.4(34) *Renewal of licenses.*

a. Applications for renewal of specific licenses shall be filed in accordance with 39.4(24) and include the fees required in 641—subrule 38.8(2).

b. In any case in which a licensee, not less than 30 days prior to expiration of an existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until final action by the agency.

39.4(35) *Amendment of licenses at request of licensee.* Applications for amendment of a license shall be filed in accordance with 39.4(24), include the fees required in 641—subrule 38.8(2), and shall specify the respects in which the licensee desires the license to be amended and the grounds for such amendment.

39.4(36) *Agency action on applications to renew or amend.* In considering an application by a licensee to renew or amend the license, the agency will apply the criteria set forth in 39.4(25), 39.4(27), 39.4(28), and 39.4(29) and in 641—Chapters 38, 40, 41, 42, 43, 44 and 45, as applicable.

39.4(37) *Persons possessing a license for source, by-product, or special nuclear material in quantities not sufficient to form a critical mass on effective date of these rules.* Any person who, on the effective date of these rules, possesses a general or specific license issued by the U.S. Nuclear Regulatory Commission for source, by-product, or special nuclear material in quantities not sufficient to form a critical mass, shall be deemed to possess a like license issued under this chapter and the Iowa Code, such license to expire either 90 days after receipt from the agency of a notice of expiration of such license, or on the date or expiration specified in the U.S. Nuclear Regulatory Commission license, whichever is earlier.

39.4(38) *Persons possessing naturally occurring and accelerator-produced radioactive material on effective date of these rules.* Any person who, on the effective date of these rules, possesses NARM for which a specific license is required by the Iowa Code or this chapter shall be deemed to possess such a license issued under the Iowa Code and this chapter. Such license shall expire 90 days after the effective date of these rules; provided, however, that if within the 90 days the person possessing such material files an application in proper form for a license, such existing license shall not expire until the application has been finally determined by the agency.

39.4(39) and **39.4(40)** Reserved.

39.4(41) *Transfer of material.*

a. No licensee shall transfer radioactive material except as authorized pursuant to 39.4(41).

b. Except as otherwise provided in the license and subject to the provisions of 39.4(41) “c” and “d,” any licensee may transfer radioactive material:

(1) To the agency (a licensee may transfer material to the agency only after receiving prior approval from the agency);

(2) To the U.S. Department of Energy;

(3) To any person exempt from these rules to the extent permitted under such exemption;

(4) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the agency, the U.S. Nuclear Regulatory Commission, any agreement state or any licensing state, or to any person otherwise authorized to receive such material by the federal government or any agency thereof, the agency, an agreement state, or a licensing state; or

(5) As otherwise authorized by the agency in writing.

c. Before transferring radioactive material to a specific licensee of the agency, the U.S. Nuclear Regulatory Commission, an agreement state or a licensing state, or to a general licensee who is required to register with the agency, the U.S. Nuclear Regulatory Commission, an agreement state or a licensing state prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee’s license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

d. Any of the following methods for the verification required by 39.4(41) “c” is acceptable:

(1) The transferor may possess and read a current copy of the transferee’s specific license or registration certificate.

(2) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date.

(3) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within ten days.

(4) The transferor may obtain other information compiled by a reporting service from official records of the agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state regarding the identity of licensees and the scope and expiration dates of licenses and registration.

(5) When none of the methods of verification described in 39.4(41) “d”(1) through (4) are readily available or when a transferor desires to verify that information received by one of such methods is

correct or up to date, the transferor may obtain and record confirmation from the agency, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state that the transferee is licensed to receive the radioactive material.

e. Shipment and transport of radioactive material shall be in accordance with the provisions of 641—39.5(136C).

39.4(42) to 39.4(50) Reserved.

39.4(51) *Modification and revocation of licenses.*

a. The terms and conditions of all licenses shall be subject to amendment, revision, or modification or the license may be suspended or revoked by reason of amendments to the Iowa Code, or by reason of rules, regulations, and orders issued by the agency.

b. Any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under provisions of the Iowa Code, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Iowa Code, or of the license, or of any rule, regulation, or order of the agency.

c. Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

39.4(52) *Records.*

a. Each person who receives by-product material pursuant to a license shall keep records showing the receipt, transfer, and disposal of the by-product material as follows:

(1) The licensee shall retain each record of receipt of by-product material as long as the material is possessed and for three years following transfer or disposal of material.

(2) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another part of these rules dictates otherwise.

(3) The licensee who disposed of the material shall retain each record of disposal of by-product material until the agency terminates each license that authorizes disposal of the material.

b. The licensee shall retain each record that is required by these rules or by license condition for the period specified by the appropriate rule or license condition; the record must be retained until the agency terminates each license that authorizes the activity that is subject to the record-keeping requirements.

c. Records which must be maintained may be the original or a reproduced copy or microfilm if such reproduced copy or microfilm is duly authenticated by authorized personnel and the microfilm is capable of producing a clear and legible copy after storage for the period specified by agency regulations. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

d. If there is a conflict between the agency's rules or other written agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in these rules for such records shall apply unless the agency has granted a specific exemption from the record retention requirements specified in agency rules.

e. Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the agency:

(1) Records of disposal of licensed material made under 641—40.71(136C) (including burials authorized before January 28, 1981) to 641—40.74(136C); and

(2) Records required by 641—paragraph 40.82(2)“*d.*”

f. If licensed activities are transferred or assigned, each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records

to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(1) Records of disposal of licensed material made under 40.71(136C) (including burials authorized before January 28, 1981) to 641—40.74(136C); and

(2) Records required by 641—paragraph 40.82(2) “d.”

g. Prior to license termination, each licensee shall forward the records required by subrule 39.4(26) to the agency.

39.4(53) to 39.4(89) Reserved.

39.4(90) Reciprocal recognition of licenses.

a. Licenses of by-product, source, and special nuclear material in quantities not sufficient to form a critical mass.

(1) Subject to 641—Chapter 39, any person who holds a specific license from the U.S. Nuclear Regulatory Commission or an agreement state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in a one-year period. The one-year period starts on the day the licensee’s reciprocity fee, as specified in 641—subrule 38.8(8), is received by the agency and ends exactly 365 days later. Licensees are responsible for ensuring they do not exceed the 180-day limit within the one-year period and must apply for renewal 30 days prior to the expiration date of the one-year reciprocal recognition period. Out-of-state persons wishing to operate in the state in excess of 180 calendar days must obtain an Iowa radioactive materials license.

(2) The licensing document referenced in 39.4(90) “a”(1) shall not limit the activity authorized by such document to specified installations or locations.

(3) The out-of-state licensee shall notify the agency in writing at least three working days prior to engaging in activities in the state. Such notification shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document initially. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the agency, obtain permission to proceed sooner. The agency may waive the requirement for filing additional written notifications during the remainder of the one-year reciprocity period following the receipt of the initial notification from a person engaging in activities under the general license provided by 39.4(90) “a.”

(4) The out-of-state licensee shall comply with all applicable rules of the agency and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable rules of the agency.

(5) The out-of-state licensee shall supply other information as the agency may request.

(6) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided by 39.4(90) “a” except by transfer to a person specifically licensed by the agency, another agreement state or the U.S. Nuclear Regulatory Commission to receive such material.

(7) Notwithstanding the provisions of 39.4(90) “a”(1), any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission or an agreement state authorizing the holder to manufacture, transfer, install, or service a device described in 39.4(22) “d”(1) within areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate, or service such a device in this state provided that:

1. Such person shall file a report with the agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;

2. The device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an agreement state;

3. Such person shall ensure that any labels required to be affixed to the device under regulations of the authority which licensed manufacture of the device bear a statement that “Removal of this label is prohibited”; and

4. The holder of the specific license shall furnish to each general licensee to whom the holder transfers such device or on whose premises the holder installs such device a copy of the general license contained in 39.4(22) “d” or in equivalent regulations of the agency having jurisdiction over the manufacture and distribution of the device.

(8) The agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an agreement state, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(9) The agency may revoke or suspend an out-of-state radiographer’s ID card issued by the U.S. Nuclear Regulatory Commission, a licensing state, or another agreement state in accordance with the provisions of 641—45.1(10) “h.”

b. Licenses of naturally occurring or accelerator-produced radioactive material.

(1) Subject to 641—Chapter 39, any person who holds a specific license from the U.S. Nuclear Regulatory Commission or an agreement state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in a one-year period. The one-year period starts on the day the licensee’s reciprocity fee, as specified in 641—subrule 38.8(8), is received by the agency and ends exactly 365 days later. Licensees are responsible for ensuring they do not exceed the 180-day limit within the one-year period and must apply for renewal 30 days prior to the expiration date of the one-year reciprocal recognition period. Out-of-state persons wishing to operate in the state in excess of 180 calendar days must obtain an Iowa radioactive materials license, which requires that the person have a permanent office in Iowa where records are maintained pertaining to licensed activities and where material can be stored, and must have at least one full-time employee and a telephone.

(2) The licensing document referenced in 39.4(90) “a”(1) shall not limit the activity authorized by such document to specified installations or locations.

(3) The out-of-state licensee shall notify the agency in writing at least three days prior to engaging in activities in the state. Such notification shall indicate the location, period, and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document initially. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the agency, obtain permission to proceed sooner. The agency may waive the requirement for filing additional written notifications during the remainder of the one-year reciprocity period following the receipt of the initial notification from a person engaging in activities under the general license provided by 39.4(90) “b.”

(4) The out-of-state licensee shall comply with all applicable rules of the agency and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with applicable rules of the agency.

(5) The out-of-state licensee shall supply other information as the agency may request.

(6) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided by 39.4(90) “b” except by transfer to a person:

1. Specifically licensed by the agency, another agreement state or the U.S. Nuclear Regulatory Commission to receive such material, or

2. Exempt from the requirements for a license for such material under 39.4(3) “a.”

(7) Notwithstanding the provisions of 39.4(90) “b”(1), any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission or an agreement state authorizing the holder to manufacture, transfer, install, or service a device described in 39.4(22) “d”(1) within areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate, or service such a device in this state provided that:

1. Such person shall file a report with the agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;

2. The device has been manufactured, labeled, installed, and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an agreement state;

3. Such person shall ensure that any labels required to be affixed to the device under regulations of the authority which licensed manufacture of the device bear a statement that "Removal of this label is prohibited"; and

4. The holder of the specific license shall furnish to each general licensee to whom the holder transfers such device or on whose premises the holder installs such device a copy of the general license contained in 39.4(22) "d" or in equivalent regulations of the agency having jurisdiction over the manufacture and distribution of the device.

(8) The agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an agreement state, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(9) The agency may revoke or suspend an out-of-state radiographer's ID card issued by the U.S. Nuclear Regulatory Commission, a licensing state, or another agreement state in accordance with the provisions of 641—45.1(10) "h."

39.4(91) to 39.4(104) Reserved.

[ARC 7983B, IAB 7/29/09, effective 9/2/09; ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—39.5(136C) Transportation of radioactive material. All persons who transport radioactive material or deliver radioactive material to a carrier for transport must comply with the applicable provisions contained in 10 CFR Part 71 and 49 CFR Parts 170 through 189. The regulations in 10 CFR Part 71 apply to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage, or transports that material on public highways. No provision of 10 CFR Part 71 authorizes possession of licensed material.

CHAPTER 39—APPENDIX A
EXEMPT CONCENTRATIONS

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci/ml}$ <u>1/</u>	Column II Liquid and solid concentration $\mu\text{Ci/ml}$ <u>2/</u>
Antimony (51)	Sb-122		3×10^{-4}
	Sb-124		2×10^{-4}
	Sb-125		1×10^{-3}
Argon (18)	Ar-37	1×10^{-3}	
	Ar-41	4×10^{-7}	
Arsenic (33)	As-73		5×10^{-3}
	As-74		5×10^{-4}
	As-76		2×10^{-4}
	As-77		8×10^{-4}
Barium (56)	Ba-131		2×10^{-3}
	Ba-140		3×10^{-4}
Beryllium (4)	Be-7		2×10^{-2}
Bismuth (83)	Bi-206		4×10^{-4}
Bromine (35)	Br-82	4×10^{-7}	3×10^{-3}
Cadmium (48)	Cd-109		2×10^{-3}
	Cd-115m		3×10^{-4}
	Cd-115		3×10^{-4}
Calcium (20)	Ca-45		9×10^{-5}
	Ca-47		5×10^{-4}
Carbon (6)	C-14	1×10^{-6}	8×10^{-3}
Cerium (58)	Ce-141		9×10^{-4}
	Ce-143		4×10^{-4}
	Ce-144		1×10^{-4}
Cesium (55)	Cs-131		2×10^{-2}
	Cs-134m		6×10^{-2}
	Cs-134		9×10^{-5}
Chlorine (17)	Cl-38	9×10^{-7}	4×10^{-3}
Chromium (24)	Cr-51		2×10^{-2}
Cobalt (27)	Co-57		5×10^{-3}
	Co-58		1×10^{-3}
	Co-60		5×10^{-4}
Copper (29)	Cu-64		3×10^{-3}
Dysprosium (66)	Dy-165		4×10^{-3}
	Dy-166		4×10^{-4}
Erbium (68)	Er-169		9×10^{-4}
	Er-171		1×10^{-3}
Europium (63)	Eu-152(9.2 h)		6×10^{-4}
	Eu-155		2×10^{-3}
Fluorine (9)	F-18	2×10^{-6}	8×10^{-3}

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci/ml}$ <u>1/</u>	Column II Liquid and solid concentration $\mu\text{Ci/ml}$ <u>2/</u>
Gadolinium (64)	Gd-153		2×10^{-3}
	Gd-159		8×10^{-4}
Gallium (31)	Ga-72		4×10^{-4}
Germanium (32)	Ge-71		2×10^{-2}
Gold (79)	Au-196		2×10^{-3}
	Au-198		5×10^{-4}
	Au-199		2×10^{-3}
Hafnium (72)	Hf-181		7×10^{-4}
Hydrogen (1)	H-3	5×10^{-6}	3×10^{-2}
Indium (49)	In-113m		1×10^{-2}
	In-114m		2×10^{-4}
Iodine (53)	I-126	3×10^{-9}	2×10^{-5}
	I-131	3×10^{-9}	2×10^{-5}
	I-132	8×10^{-8}	6×10^{-4}
	I-133	1×10^{-8}	7×10^{-5}
	I-134	2×10^{-7}	1×10^{-3}
Iridium (77)	Ir-190		2×10^{-3}
	Ir-192		4×10^{-4}
	Ir-194		3×10^{-4}
Iron (26)	Fe-55		8×10^{-3}
	Fe-59		6×10^{-4}
Krypton (36)	Kr-85m	1×10^{-6}	
	Kr-85	3×10^{-6}	
Lanthanum (57)	La-140		2×10^{-4}
Lead (82)	Pb-203		4×10^{-3}
Lutetium (71)	Lu-177		1×10^{-3}
Manganese (25)	Mn-52		3×10^{-4}
	Mn-54		1×10^{-3}
	Mn-56		1×10^{-3}
Mercury (80)	Hg-197m		2×10^{-3}
	Hg-197		3×10^{-3}
	Hg-203		2×10^{-4}
Molybdenum (42)	Mo-99		2×10^{-3}
Neodymium (60)	Nd-147		6×10^{-4}
	Nd-149		3×10^{-3}
Nickel (28)	Ni-65		1×10^{-3}
Niobium (Columbium) (41)	Nb-95		1×10^{-3}
	Nb-97		9×10^{-3}
Osmium (76)	Os-185		7×10^{-4}
	Os-191m		3×10^{-2}
	Os-191		2×10^{-3}
	Os-193		6×10^{-4}

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci/ml}$ <u>1/</u>	Column II Liquid and solid concentration $\mu\text{Ci/ml}$ <u>2/</u>
Palladium (46)	Pd-103		3×10^{-3}
	Pd-109		9×10^{-4}
Phosphorus (15)	P-32		2×10^{-4}
Platinum (78)	Pt-191		1×10^{-3}
	Pt-193m		1×10^{-2}
	Pt-197m		1×10^{-2}
	Pt-197		1×10^{-3}
Potassium (19)	K-42		3×10^{-3}
Praseodymium (59)	Pr-142		3×10^{-4}
	Pr-143		5×10^{-4}
Promethium (61)	Pm-147		2×10^{-3}
	Pm-149		4×10^{-4}
Rhenium (75)	Re-183		6×10^{-3}
	Re-186		9×10^{-4}
	Re-188		6×10^{-4}
Rhodium (45)	Rh-103m		1×10^{-1}
	Rh-105		1×10^{-3}
Rubidium (37)	Rb-86		7×10^{-4}
Ruthenium (44)	Ru-97		4×10^{-3}
	Ru-103		8×10^{-4}
	Ru-105		1×10^{-3}
	Ru-106		1×10^{-4}
Samarium (62)	Sm-153		8×10^{-4}
Scandium (21)	Sc-46		4×10^{-4}
	Sc-47		9×10^{-4}
	Sc-48		3×10^{-4}
Selenium (34)	Se-75		3×10^{-3}
Silicon (14)	Si-31		9×10^{-3}
Silver (47)	Ag-105		1×10^{-3}
	Ag-110m		3×10^{-4}
	Ag-111		4×10^{-4}
Sodium (11)	Na-24		2×10^{-3}
Strontium (38)	Sr-85		1×10^{-3}
	Sr-89		1×10^{-4}
	Sr-91		7×10^{-4}
	Sr-92		7×10^{-4}
Sulfur (16)	S-35	9×10^{-8}	6×10^{-4}
Tantalum (73)	Ta-182		4×10^{-4}
Technetium (43)	Tc-96m		1×10^{-1}
	Tc-96		1×10^{-3}
Tellurium (52)	Te-125m		2×10^{-3}
	Te-127m		6×10^{-4}

Element (atomic number)	Radionuclide	Column I Gas concentration $\mu\text{Ci/ml}$ <u>1/</u>	Column II Liquid and solid concentration $\mu\text{Ci/ml}$ <u>2/</u>
	Te-127		3×10^{-3}
	Te-129m		3×10^{-4}
	Te-131m		6×10^{-4}
	Te-132		3×10^{-4}
Terbium (65)	Tb-160		4×10^{-4}
Thallium (81)	Tl-200		4×10^{-3}
	Tl-201		3×10^{-3}
	Tl-202		1×10^{-3}
	Tl-204		1×10^{-3}
Thulium (69)	Tm-170		5×10^{-4}
	Tm-171		5×10^{-3}
Tin (50)	Sn-113		9×10^{-4}
	Sn-125		2×10^{-4}
Tungsten (Wolfram) (74)	W-181		4×10^{-3}
	W-187		7×10^{-4}
Vanadium (23)	V-48		3×10^{-4}
Xenon (54)	Xe-131m	4×10^{-6}	
	Xe-133	3×10^{-6}	
	Xe-135	1×10^{-6}	
Ytterbium (70)	Yb-175		1×10^{-3}
Yttrium (39)	Y-90		2×10^{-4}
	Y-91m		3×10^{-2}
	Y-91		3×10^{-4}
	Y-92		6×10^{-4}
	Y-93		3×10^{-4}
Zinc (30)	Zn-65		1×10^{-3}
	Zn-69m		7×10^{-4}
	Zn-69		2×10^{-2}
Zirconium (40)	Zr-95		6×10^{-4}
	Zr-97		2×10^{-4}
Beta- and/or gamma-emitting radioactive material not listed above with half-life of less than 3 years.		1×10^{-10}	1×10^{-6}

1/ Values are given in Column I only for those materials normally used as gases.

2/ $\mu\text{Ci/g}$ for solids.

NOTE 1: Many radionuclides transform into other radionuclides. In expressing the concentrations in Appendix A, the activity stated is that of the parent radionuclide and takes into account the radioactive decay products.

NOTE 2: For purposes of 39.4(3) where there is involved a combination of radionuclides, the limit for the combination should be derived as follows: Determine for each radionuclide in the product the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Appendix A for the specific radionuclide when not in combination. The sum of such ratios may not exceed "1."

EXAMPLE: Concentration of Radionuclide A in Product +

Exempt concentration of Radionuclide A

Concentration of Radionuclide B in Product <1

Exempt concentration of Radionuclide B

NOTE 3: To convert $\mu\text{Ci/ml}$ to SI units of megabecquerels per liter multiply the above values by 37.

EXAMPLE: Zirconium (40) Zr-97 ($2 \times 10^{-4} \mu\text{Ci/ml}$ multiplied by 37 is equivalent to $74 \times 10^{-4} \text{MBq/l}$)

CHAPTER 39—APPENDIX B
EXEMPT QUANTITIES

Radioactive Material	Microcuries
Antimony-122 (Sb 122)	100
Antimony-124 (Sb 124)	10
Antimony-125 (Sb 125)	10
Arsenic-73 (As 73)	100
Arsenic-74 (As 74)	10
Arsenic-76 (As 76)	10
Arsenic-77 (As 77)	100
Barium-131 (Ba 131)	10
Barium-133 (Ba 133)	10
Barium-140 (Ba 140)	10
Bismuth-210 (Bi 210)	1
Bromine-82 (Br 82)	10
Cadmium-109 (Cd 109)	10
Cadmium-115m (Cd 115m)	10
Cadmium-115 (Cd 115)	100
Calcium-45 (Ca 45)	10
Calcium-47 (Ca 47)	10
Carbon-14 (C 14)	100
Cerium-141 (Ce 141)	100
Cerium-143 (Ce 143)	100
Cerium-144 (Ce 144)	1
Cesium-129 (Cs 129)	100
Cesium-131 (Cs 131)	1,000
Cesium-134m (Cs 134m)	100
Cesium-134 (Cs 134)	1
Cesium-135 (Cs 135)	10
Cesium-136 (Cs 136)	10
Cesium-137 (Cs 137)	10
Chlorine-36 (Cl 36)	10
Chlorine-38 (Cl 38)	10
Chromium-51 (Cr 51)	1,000
Cobalt-57 (Co 57)	100
Cobalt-58m (Co 58m)	10
Cobalt-58 (Co 58)	10
Cobalt-60 (Co 60)	1
Copper-64 (Cu 64)	100
Dysprosium-165 (Dy 165)	10
Dysprosium-166 (Dy 166)	100
Erbium-169 (Er 169)	100
Erbium-171 (Er 171)	100
Europium-152 (Eu 152)9.2h	100
Europium-152 (Eu 152)13 yr	1

Radioactive Material	Microcuries
Europium-154 (Eu 154)	1
Europium-155 (Eu 155)	10
Fluorine-18 (F 18)	1,000
Gadolinium-153 (Gd 153)	10
Gadolinium-159 (Gd 159)	100
Gallium-67 (Ga 67)	100
Gallium-72 (Ga 72)	10
Germanium-68 (Ge 68)	10
Germanium-71 (Ge 71)	100
Gold-195 (Au 195)	10
Gold-198 (Au 198)	100
Gold-199 (Au 199)	100
Hafnium-181 (Hf 181)	10
Holmium-166 (Ho 166)	100
Hydrogen-3 (H 3)	1,000
Indium-111 (In 111)	100
Indium-113m (In 113m)	100
Indium-114m (In 114m)	10
Indium-115m (In 115m)	100
Indium-115 (In 115)	10
Iodine-123 (I 123)	100
Iodine-125 (I 125)	1
Iodine-126 (I 126)	1
Iodine-129 (I 129)	0.1
Iodine-131 (I 131)	1
Iodine-132 (I 132)	10
Iodine-133 (I 133)	1
Iodine-134 (I 134)	10
Iodine-135 (I 135)	10
Iridium-192 (Ir 192)	10
Iridium-194 (Ir 194)	100
Iron-52 (Fe 52)	10
Iron-55 (Fe 55)	100
Iron-59 (Fe 59)	10
Krypton-85 (Kr 85)	100
Krypton-87 (Kr 87)	10
Lanthanum-140 (La 140)	10
Lutetium-177 (Lu 177)	100
Manganese-52 (Mn 52)	10
Manganese-54 (Mn 54)	10
Manganese-56 (Mn 56)	10
Mercury-197m (Hg 197m)	100
Mercury-197 (Hg 197)	100
Mercury-203 (Hg 203)	10

Radioactive Material	Microcuries
Molybdenum-99 (Mo 99)	100
Neodymium-147 (Nd 147)	100
Neodymium-149 (Nd 149)	100
Nickel-59 (Ni 59)	100
Nickel-63 (Ni 63)	10
Nickel-65 (Ni 65)	100
Niobium-93m (Nb 93m)	10
Niobium-95 (Nb 95)	10
Niobium-97 (Nb 97)	10
Osmium-185 (Os 185)	10
Osmium-191m (Os 191m)	100
Osmium-191 (Os 191)	100
Osmium-193 (Os 193)	100
Palladium-103 (Pd 103)	100
Palladium-109 (Pd 109)	100
Phosphorus-32 (P 32)	10
Platinum-191 (Pt 191)	100
Platinum-193m (Pt 193m)	100
Platinum-193 (Pt 193)	100
Platinum-197m (Pt 197m)	100
Platinum-197 (Pt 197)	100
Polonium-210 (Po 210)	0.1
Potassium-42 (K 42)	10
Potassium-43 (K 43)	10
Praseodymium-142 (Pr 142)	100
Praseodymium-143 (Pr 143)	100
Promethium-147 (Pm 147)	10
Promethium-149 (Pm 149)	10
Rhenium-186 (Re 186)	100
Rhenium-188 (Re 188)	100
Rhodium-103m (Rh 103m)	100
Rhodium-105 (Rh 105)	100
Rubidium-81 (Rb 81)	10
Rubidium-86 (Rb 86)	10
Rubidium-87 (Rb 87)	10
Ruthenium-97 (Ru 97)	100
Ruthenium-103 (Ru 103)	10
Ruthenium-105 (Ru 105)	10
Ruthenium-106 (Ru 106)	1
Samarium-151 (Sm 151)	10
Samarium-153 (Sm 153)	100
Scandium-46 (Sc 46)	10
Scandium-47 (Sc 47)	100
Scandium-48 (Sc 48)	10

Radioactive Material	Microcuries
Selenium-75 (Se 75)	10
Silicon-31 (Si 31)	100
Silver-105 (Ag 105)	10
Silver-110m (Ag 110m)	1
Silver-111 (Ag 111)	100
Sodium-22 (Na 22)	10
Sodium-24 (Na 24)	10
Strontium-85 (Sr 85)	10
Strontium-89 (Sr 89)	1
Strontium-90 (Sr 90)	0.1
Strontium-91 (Sr 91)	10
Strontium-92 (Sr 92)	10
Sulphur-35 (S 35)	100
Tantalum-182 (Ta 182)	10
Technetium-96 (Tc 96)	10
Technetium-97m (Tc 97m)	100
Technetium-97 (Tc 97)	100
Technetium-99m (Tc 99m)	100
Technetium-99 (Tc 99)	10
Tellurium-125m (Te 125m)	10
Tellurium-127m (Te 127m)	10
Tellurium-127 (Te 127)	100
Tellurium-129m (Te 129m)	10
Tellurium-129 (Te 129)	100
Tellurium-131m (Te 131m)	10
Tellurium-132 (Te 132)	10
Terbium-160 (Tb 160)	10
Thallium-200 (Tl 200)	100
Thallium-201 (Tl 201)	100
Thallium-202 (Tl 202)	100
Thallium-204 (Tl 204)	10
Thulium-170 (Tm 170)	10
Thulium-171 (Tm 171)	10
Tin-113 (Sn 113)	10
Tin-125 (Sn 125)	10
Tungsten-181 (W 181)	10
Tungsten-185 (W 185)	10
Tungsten-187 (W 187)	100
Vanadium-48 (V 48)	10
Xenon-131m (Xe 131m)	1,000
Xenon-133 (Xe 133)	100
Xenon-135 (Xe 135)	100
Ytterbium-175 (Yb 175)	100
Yttrium-87 (Y 87)	10

Radioactive Material	Microcuries
Yttrium-88 (Y 88)	10
Yttrium-90 (Y 90)	10
Yttrium-91 (Y 91)	10
Yttrium-92 (Y 92)	100
Yttrium-93 (Y 93)	100
Zinc-65 (Zn 65)	10
Zinc-69m (Zn 69m)	100
Zinc-69 (Zn 69)	1,000
Zirconium-93 (Zr 93)	10
Zirconium-95 (Zr 95)	10
Zirconium-97 (Zr 97)	10
Any radioactive material not listed above other than alpha-emitting radioactive material	0.1

NOTE 1: For purposes of 39.4(25) “f”(5)“2” where there is involved a combination of radionuclides, the limit for the combination should be derived as follows:

Determine the amount of each radionuclide possessed and 1,000 times the amount in Appendix B for each of those radionuclides when not in combination. The sum of the ratios of those quantities may not exceed 1.

EXAMPLE:

$$\frac{\text{Amt. of Radionuclide A possessed}}{1000 \times \text{Appendix B quantity for Radionuclide A}} + \frac{\text{Amt. of Radionuclide B possessed}}{1000 \times \text{Appendix B quantity for Radionuclide B}} \leq 1$$

NOTE 2: To convert microcuries (μCi) to SI units of kilobecquerels (kBq), multiply the above values by 37.

EXAMPLE: Zirconium-97 (10 μCi multiplied by 37 is equivalent to 370 kBq).

CHAPTER 39—APPENDIX D

LIMITS FOR BROAD LICENSES (39.4(28))

Radioactive Material	Column I curies	Column II curies
Antimony-122	1	0.01
Antimony-124	1	0.01
Antimony-125	1	0.01
Arsenic-73	10	0.1
Arsenic-74	1	0.01
Arsenic-76	1	0.01
Arsenic-77	10	0.1
Barium-131	10	0.1
Barium-140	1	0.01
Beryllium-7	10	0.1
Bismuth-210	0.1	0.001
Bromine-82	10	0.1
Cadmium-109	1	0.01
Cadmium-115m	1	0.01
Cadmium-115	10	0.1
Calcium-45	1	0.01
Calcium-47	10	0.1
Carbon-14	100	1.
Cerium-141	10	0.1
Cerium-143	10	0.1
Cerium-144	0.1	0.001
Cesium-131	100	1.
Cesium-134m	100	1.
Cesium-134	0.1	0.001
Cesium-135	1	0.01
Cesium-136	10	0.1
Cesium-137	0.1	0.001
Chlorine-36	1	0.01
Chlorine-38	100	1.
Chromium-51	100	1.
Cobalt-57	10	0.1
Cobalt-58m	100	1.
Cobalt-58	1	0.01
Cobalt-60	0.1	0.001
Copper-64	10	0.1
Dysprosium-165	100	1.
Dysprosium-166	10	0.1
Erbium-169	10	0.1
Erbium-171	10	0.1
Europium-152 (9.2 h)	10	0.1
Europium-152 (13 y)	0.1	0.001

Radioactive Material	Column I curies	Column II curies
Europium-154	0.1	0.001
Europium-155	1	0.01
Fluorine-18	100	1.
Gadolinium-153	1	0.01
Gadolinium-159	10	0.1
Gallium-72	10	0.1
Germanium-71	100	1.
Gold-198	10	0.1
Gold-199	10	0.1
Hafnium-181	1	0.01
Holmium-166	10	0.1
Hydrogen-3	100	1.
Indium-113m	100	1.
Indium-114m	1	0.01
Indium-115m	100	1.
Indium-115	1	0.01
Iodine-125	0.1	0.001
Iodine-126	0.1	0.001
Iodine-129	0.1	0.001
Iodine-131	0.1	0.001
Iodine-132	10	0.1
Iodine-133	1	0.01
Iodine-134	10	0.1
Iodine-135	1	0.01
Iridium-192	1	0.01
Iridium-194	10	0.1
Iron-55	10	0.1
Iron-59	1	0.01
Krypton-85	100	1.
Krypton-87	10	0.1
Lanthanum-140	1	0.01
Lutetium-177	10	0.1
Manganese-52	1	0.01
Manganese-54	1	0.01
Manganese-56	10	0.1
Mercury-197m	10	0.1
Mercury-197	10	0.1
Mercury-203	1	0.01
Molybdenum-99	10	0.1
Neodymium-147	10	0.1
Neodymium-149	10	0.1
Nickel-59	10	0.1
Nickel-63	1	0.01
Nickel-65	10	0.1

Radioactive Material	Column I curies	Column II curies
Niobium-93m	1	0.01
Niobium-95	1	0.01
Niobium-97	100	1.
Osmium-185	1	0.01
Osmium-191m	100	1.
Osmium-191	10	0.1
Osmium-193	10	0.1
Palladium-103	10	0.1
Palladium-109	10	0.1
Phosphorus-32	1	0.01
Platinum-191	10	0.1
Platinum-193m	100	1.
Platinum-193	10	0.1
Platinum-197m	100	1.
Platinum-197	10	0.1
Polonium-210	0.01	0.0001
Potassium-42	1	0.01
Praseodymium-142	10	0.1
Praseodymium-143	10	0.1
Promethium-147	1	0.01
Promethium-149	10	0.1
Radium-226	0.01	0.0001
Rhenium-186	10	0.1
Rhenium-188	10	0.1
Rhodium-103m	1,000	10.
Rhodium-105	10	0.1
Rubidium-86	1	0.01
Rubidium-87	1	0.01
Ruthenium-97	100	1.
Ruthenium-103	1	0.01
Ruthenium-105	10	0.1
Ruthenium-106	0.1	0.001
Samarium-151	1	0.01
Samarium-153	10	0.1
Scandium-46	1	0.01
Scandium-47	10	0.1
Scandium-48	1	0.01
Selenium-75	1	0.01
Silicon-31	10	0.1
Silver-105	1	0.01
Silver-110m	0.1	0.001
Silver-111	10	0.1
Sodium-22	0.1	0.001
Sodium-24	1	0.01

Radioactive Material	Column I curies	Column II curies
Strontium-85m	1,000	10.
Strontium-85	1	0.01
Strontium-89	1	0.01
Strontium-90	0.01	0.0001
Strontium-91	10	0.1
Strontium-92	10	0.1
Sulphur-35	10	0.1
Tantalum-182	1	0.01
Technetium-96	10	0.1
Technetium-97m	10	0.1
Technetium-97	10	0.1
Technetium-99m	100	1.
Technetium-99	1	0.01
Tellurium-125m	1	0.01
Tellurium-127m	1	0.01
Tellurium-127	10	0.1
Tellurium-129m	1	0.01
Tellurium-129	100	1.
Tellurium-131m	10	0.1
Tellurium-132	1	0.01
Terbium-160	1	0.01
Thallium-200	10	0.1
Thallium-201	10	0.1
Thallium-202	10	0.1
Thallium-204	1	0.01
Thulium-170	1	0.01
Thulium-171	1	0.01
Tin-113	1	0.01
Tin-125	1	0.01
Tungsten-181	1	0.01
Tungsten-185	1	0.01
Tungsten-187	10	0.1
Vanadium-48	1	0.01
Xenon-131m	1,000	10.
Xenon-133	100	1.
Xenon-135	100	1.
Ytterbium-175	10	0.1
Yttrium-90	1	0.01
Yttrium-91	1	0.01
Yttrium-92	10	0.1
Yttrium-93	1	0.01
Zinc-65	1	0.01

Radioactive Material	Column I curies	Column II curies
Zinc-69m	10	0.1
Zinc-69	100	1.
Zirconium-93	1	0.01
Zirconium-95	1	0.01
Zirconium-97	1	0.01
Any radioactive material other than source material, special nuclear material, or alpha-emitting radioactive material not listed above.	0.1	0.001

NOTE 1: To convert curies (Ci) to SI units of gigabecquerels (GBq), multiply the above values by 37.

EXAMPLE: Zirconium-97 (Col. II) (0.01 Ci multiplied by 37 is equivalent to 0.37 GBq).

CHAPTER 39—APPENDIX E
 DETERMINATION OF A_1 AND A_2
 Rescinded IAB 4/5/00, effective 5/10/00

CHAPTER 39—APPENDIX F
CRITERIA RELATING TO USE OF FINANCIAL TESTS AND PARENT COMPANY
GUARANTEES FOR PROVIDING REASONABLE ASSURANCE
OF FUNDS FOR DECOMMISSIONING

I. Introduction.

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

II. Financial Test.

A. To pass the financial test, the parent company must meet the criteria of either paragraph A.1 or A.2 of this section:

1. The parent company must have:

(1) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; a ratio of current assets to current liabilities greater than 1.5; and

(2) Net working capital and tangible net worth each at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used); and

(3) Tangible net worth of at least \$10 million; and

(4) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used).

2. The parent company must have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, or Baa as issued by Moody's; and

(2) Tangible net worth at least six times the current decommissioning cost estimate (or prescribed amount if a certification is used); and

(3) Tangible net worth of at least \$10 million; and

(4) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used).

B. The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform BRH within 90 days or any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

C.1. After the initial financial test, the parent company must repeat the passage of the test within 90 days after the close of each succeeding fiscal year.

2. If the parent company no longer meets the requirements of paragraph A of this section, the licensee must send notice to the BRH of intent to establish alternate financial assurance as specified in BRH rules. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. Parent Company Guarantee.

The terms of a parent company guarantee which an applicant or licensee obtains must provide that:

A. The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the BRH. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and BRH, as evidenced by the return receipts.

B. If the licensee fails to provide alternate financial assurance as specified in BRH rules within 90 days after receipt by the licensee and BRH notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.

C. The parent company guarantee and financial test provisions must remain in effect until the BRH has terminated the license.

D. If a trust is established for decommissioning costs, the trustee and trust must be acceptable to BRH. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

CHAPTER 39—APPENDIX G

QUANTITIES OF RADIOACTIVE MATERIALS REQUIRING CONSIDERATION OF
THE NEED FOR AN EMERGENCY PLAN FOR RESPONDING TO A RELEASE

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (curies)</u>
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9 (20 mg)
Carbon-14	.01	50,000
	Non CO	
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-173	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Iodine-125	.5	10
Iodine-131	.5	10

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (curies)</u>
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-58	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Radium-226	.001	100
Ruthenium-106	.01	200
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (curies)</u>
Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment, beta-gamma	.001	10,000
Irradiated material, any form other than solid noncombustible	.01	1,000
Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma ²	.001	10,000
Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha ²	.0001	20
Combinations of radioactive materials listed above ¹	—	—

¹ For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Appendix G exceeds one.

² Waste packaged in Type B containers does not require an emergency plan.
[ARC 8982B, IAB 8/11/10, effective 9/15/10]

CHAPTER 39—APPENDIX H
CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEES FOR
PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. To pass the financial test, a company must meet all of the following criteria:

1. Tangible net worth at least ten times the total current decommissioning cost estimate for the total of all facilities or parts thereof (or the current amount required if certification is used).
2. Assets located in the United States amounting to at least 90 percent of total assets or at least ten times the total current decommissioning cost estimate for the total of all facilities or parts thereof (or the current amount required if certification is used).
3. A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poor's (S&P) or Aaa, Aa, or A as issued by Moody's.

B. To pass the financial test, a company must meet all of the following additional requirements:

1. The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.
2. The company's independent certified public accountant must have compared the data used by the company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.
3. After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

C. If the licensee no longer meets the requirements of Section II.A. of this appendix, the licensee must send immediate notice to the agency of its intent to establish alternate financial assurance as specified in these rules within 120 days of such notice.

III. Company Self-Guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the agency, as evidenced by the return receipt.

B. The licensee shall provide alternative financial assurance as specified in these rules within 90 days following receipt by the agency of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the agency has terminated the license or until another financial assurance method acceptable to the agency has been put in effect by the licensee.

D. The licensee will promptly forward to the agency and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of Section 13 of the Securities and Exchange Act of 1934.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee will provide notice in writing of such fact to the agency within 20 days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section II.A. of this appendix.

F. The applicant or licensee must provide to the agency a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the agency, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

CHAPTER 39—APPENDIX I
CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEES FOR
PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING BY
COMMERCIAL COMPANIES THAT HAVE NO OUTSTANDING RATED BONDS

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. To pass the financial test, a company must meet the following criteria:

1. Tangible net worth greater than \$10 million, or at least ten times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

2. Assets located in the United States amounting to at least 90 percent of total assets or at least ten times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

3. A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by net worth less than 1.5.

B. In addition, to pass the financial test, a company must meet all of the following requirements:

1. The company's independent certified public accountant must have compared the data used by the company in the financial test, which is required to be derived from the independently audited year-end financial statement based on United States generally accepted accounting practices for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the agency within 90 days of any matters that may cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

2. After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

3. If the licensee no longer meets the requirements of Section II.A. of this appendix, the licensee must send notice to the agency of intent to establish alternative financial assurance as specified in these rules. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within 120 days after the end of such fiscal year.

III. Company Self-Guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the agency. Cancellation may not occur until an alternative financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the regulations within 90 days following receipt by the agency of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the agency has terminated the license or until another financial assurance method acceptable to the agency has been put in effect by the licensee.

D. The applicant or licensee must provide to the agency a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the agency, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

CHAPTER 39—APPENDIX J
CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF-GUARANTEES FOR
PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING BY
NONPROFIT COLLEGES, UNIVERSITIES, AND HOSPITALS

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the applicant or licensee passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. For colleges and universities to pass the financial test, a college or university must meet either the criteria in Section II.A.1. or the criteria in Section II.A.2. of this appendix.

1. For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poor's (S&P) or Aaa, Aa, or A as issued by Moody's.

2. For applicants or licensees that do not issue bonds, unrestricted endowment consisting of assets located in the United States of at least \$50 million, or at least 30 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

B. For hospitals to pass the financial test, a hospital must meet either the criteria in Section II.B.1. or the criteria in Section II.B.2. of this appendix:

1. For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poor's (S&P) or Aaa, Aa, or A as issued by Moody's.

2. For applicants or licensees that do not issue bonds, all the following tests must be met:

(a) (Total revenues less total expenditures) divided by total revenues must be equal to or greater than 0.04.

(b) Long-term debt divided by net fixed assets must be less than or equal to 0.67.

(c) (Current assets and depreciation fund) divided by current liabilities must be greater than or equal to 2.55.

(d) Operating revenues must be at least 100 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the hospital is responsible as a self-guaranteeing licensee.

C. In addition, to pass the financial test, a licensee must meet all the following requirements:

1. The licensee's independent certified public accountant must have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year-end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform this agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

2. After the initial financial test, the licensee must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

3. If the licensee no longer meets the requirements of Section I of this appendix, the licensee must send notice to this agency of its intent to establish alternative financial assurance as specified in these rules. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. Self-Guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the agency. Cancellation may not occur until an alternative financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in these rules within 90 days following receipt by the agency of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the agency has terminated the license or until another financial assurance method acceptable to the agency has been put in effect by the licensee.

D. The applicant or licensee must provide to the agency a written guarantee (a written commitment by a corporate officer or officer of the institution) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the agency, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing of such fact to the agency within 20 days after publication of the change by the rating service.

These rules are intended to implement Iowa Code chapter 136C.

[Filed 4/7/80, Notice 2/6/80—published 4/30/80, effective 7/1/80, see 39.18 for exception]

[Filed 5/17/85, Notice 2/27/85—published 6/5/85, effective, see rule 39.94]

[Filed 11/24/86, Notice 10/8/86—published 12/2/87, effective 1/6/88]

[Filed 11/6/87, Notice 9/23/87—published 12/2/87, effective 1/6/88]

[Filed emergency 3/15/90 after Notice 1/10/90—published 4/4/90, effective 3/15/90]

[Filed 7/16/92, Notice 5/27/92—published 8/5/92, effective 9/9/92]

[Filed 7/14/94, Notice 6/8/94—published 8/3/94, effective 9/7/94]

[Filed 5/15/95, Notice 3/29/95—published 6/7/95, effective 7/12/95]

[Filed 9/16/96, Notice 7/17/96—published 10/9/96, effective 11/16/96]

[Filed 5/16/97, Notice 4/9/97—published 6/4/97, effective 7/9/97]

[Filed 3/18/98, Notice 1/14/98—published 4/8/98, effective 7/1/98]

[Filed 4/2/99, Notice 1/13/99—published 4/21/99, effective 7/1/99]

[Filed 3/15/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]

[Filed 3/16/01, Notice 2/7/01—published 4/4/01, effective 5/9/01]

[Filed 5/10/01, Notice 4/4/01—published 5/30/01, effective 7/4/01]

[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 11/15/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]

[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]

[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]

[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]

[Filed 3/9/06, Notice 2/1/06—published 3/29/06, effective 5/3/06]

[Filed 3/16/07, Notice 1/31/07—published 4/11/07, effective 5/16/07]

[Filed 7/13/07, Notice 6/6/07—published 8/1/07, effective 9/5/07]

[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]

[Filed ARC 7983B (Notice ARC 7792B, IAB 5/20/09), IAB 7/29/09, effective 9/2/09]

[Filed ARC 8982B (Notice ARC 8762B, IAB 5/19/10), IAB 8/11/10, effective 9/15/10]

[Filed ARC 1479C (Notice ARC 1414C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 40
STANDARDS FOR PROTECTION AGAINST RADIATION

GENERAL PROVISIONS

641—40.1(136C) Purpose and scope.

40.1(1) This chapter establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses or registrations issued by the agency. These rules are issued pursuant to the authority in Iowa Code section 136C.3 and 136C.4.

40.1(2) The requirements of this chapter are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this chapter. However, nothing in this chapter shall be construed as limiting actions that may be necessary to protect health and safety.

40.1(3) In addition to complying with the requirements set forth in this chapter, every reasonable effort should be made to maintain radiation exposures and releases of radioactive material in effluents to unrestricted areas as low as is reasonably achievable (ALARA). The term “as low as is reasonably achievable” means as low as is reasonably achievable taking into account the state of technology and the economics of improvements in relation to benefits to the public health and safety, other societal and socioeconomic considerations, and in relation to the utilization of ionizing radiation in the public interest.

40.1(4) Except as specifically provided in other parts of these rules, this chapter applies to persons licensed or registered by the agency to receive, possess, use, transfer, or dispose of sources of radiation. The limits in this chapter do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, or to voluntary participation in medical research programs.

40.1(5) All references to Code of Federal Regulations (CFR) in this chapter are those in effect on or before September 15, 2010.

40.1(6) The provisions of Chapter 40 are in addition to, and not in substitution for, any other applicable portions of 641—Chapters 38 to 45.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.2(136C) Definitions.

40.2(1) For the purposes of this chapter, the definitions of 641—Chapter 38 may also apply.

40.2(2) As used in this chapter, these terms have the definitions set forth below.

“*Annual limit on intake (ALI)*” means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference person that would result in a committed effective dose equivalent of 5 rem (0.05 Sv) or a committed dose equivalent of 50 rem (0.5 Sv) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B.

“*Class (or lung class or inhalation class)*” means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days, for Class W, Weeks, from 10 to 100 days, and for Class Y, Years, of greater than 100 days.

“*Declared pregnant woman*” means a woman who has voluntarily informed her licensee or registrant, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“*Derived air concentration (DAC)*” means the concentration of a given radionuclide in air which, if breathed by the reference person for a working year of 2,000 hours under conditions of light work (inhalation rate 1.2 cubic meters of air per hour) results in an intake of one ALI. DAC values are given in Table I, Column 3, of Appendix B.

“Derived air concentration-hour (DAC-hour)” means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed dose equivalent of 5 rem (0.05 Sv).

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Inhalation class” (see “Class.”)

“Lung class” (see “Class.”)

“National tracked source” means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix H of this chapter. In this context a “sealed source” is defined as radioactive material that is sealed in a capsule or closely bonded in a solid form and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term.

“Planned special exposure” means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

“Quarter” means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

“Reference person” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the reference person is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man.”

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off wastewater and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Weighting factor” w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b

^a0.30 results from 0.06 for each of 5 “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses.

^bFor the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

641—40.3(136C) Implementation.

40.3(1) Any existing license or registration condition that is more restrictive than this chapter remains in force until there is an amendment or renewal of the license or registration.

40.3(2) If a license or registration condition exempts a licensee or registrant from a provision of this chapter in effect on or before January 1, 1994, it also exempts the licensee or registrant from the corresponding provision of this chapter.

40.3(3) If a license or registration condition cites provisions of this chapter in effect prior to January 1, 1994, which do not correspond to any provisions of this chapter, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

641—40.4 to 40.9 Reserved.

RADIATION PROTECTION PROGRAMS

641—40.10(136C) Radiation protection programs.

40.10(1) Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of this chapter. See 40.81(136C) for record-keeping requirements relating to these programs.

40.10(2) The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).

40.10(3) The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.

40.10(4) To implement the ALARA requirements of 40.10(2), and notwithstanding the requirements in 641—40.26(136C), a constraint on air emissions of radioactive material to the environment, excluding radon-222 and its daughters, shall be established by licensees such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the exceedance as provided in 641—40.97(136C) and promptly take appropriate corrective action to ensure against recurrence.

641—40.11 to 40.14 Reserved.

OCCUPATIONAL DOSE LIMITS

641—40.15(136C) Occupational dose limits for adults.

40.15(1) The licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures pursuant to 40.20(136C), to the following dose limits:

a. An annual limit, which is the more limiting of:

- (1) The total effective dose equivalent being equal to 5 rem (0.05 Sv); or
- (2) The sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 50 rem (0.5 Sv).

b. The annual limits to the lens of the eye, to the skin of the whole body, and to the skin of the extremities which are:

- (1) A lens dose equivalent of 15 rem (0.15 Sv), and
- (2) A shallow dose equivalent of 50 rem (0.5 Sv) to the skin of the whole body or to the skin of any extremity.

40.15(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See 40.20(5) "a" and "b."

40.15(3) When the external exposure is determined by measurement with an external personal monitoring device, the deep dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the agency. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent must be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure. The deep dose equivalent, lens dose equivalent, and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

40.15(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See 40.86(136C).

40.15(5) Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.

40.15(6) The licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person. See 40.19(5).

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.16(136C) Compliance with requirements for summation of external and internal doses.

40.16(1) If the licensee or registrant is required to monitor pursuant to both 40.19(1) and 40.19(2), the licensee or registrant shall demonstrate compliance with the dose limits by summing external and internal doses. If the licensee or registrant is required to monitor only pursuant to 40.19(1), or only pursuant to 40.19(2), then summation is not required to demonstrate compliance with the dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses pursuant to 40.16(2), 40.16(3) and 40.16(4). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

40.16(2) Intake by inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

a. The sum of the fractions of the inhalation ALI for each radionuclide, or

b. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or

c. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, w_T , and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10 percent of the maximum weighted value of H_{50} , that is, $w_T H_{T,50}$, per unit intake for any organ or tissue.

40.16(3) Intake by oral ingestion. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10 percent of the applicable oral ALI, the licensee shall account for this intake and include it in demonstrating compliance with the limits.

40.16(4) Intake through wounds or absorption through skin. The licensee shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be evaluated or accounted for pursuant to this subrule.

641—40.17(136C) Determination of external dose from airborne radioactive material.

40.17(1) Licensees shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.

40.17(2) Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

641—40.18(136C) Determination of internal exposure.

40.18(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee shall, when required pursuant to 40.37(136C), take suitable and timely measurements of:

- a. Concentrations of radioactive materials in air in work areas; or
- b. Quantities of radionuclides in the body; or
- c. Quantities of radionuclides excreted from the body; or
- d. Combinations of these measurements.

40.18(2) Unless respiratory protective equipment is used, as provided in 40.50(136C), or the assessment of intake is based on bioassays, the licensee shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

40.18(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee may:

- a. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee shall document that information in the individual's record; and
- b. Upon prior approval of the agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
- c. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.

40.18(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in 40.8(1) "b" or 40.8(1) "c," the licensee may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by 40.96(136C) or 40.97(136C). This delay permits the licensee to make additional measurements basic to the assessments.

40.18(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours shall be either:

- a. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y, from Appendix B for each radionuclide in the mixture; or

b. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

40.18(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.

40.18(7) When a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:

a. The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in 40.15(136C) and in complying with the monitoring requirements in 40.37(136C), and

b. The concentration of any radionuclide disregarded is less than 10 percent of its DAC, and

c. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

40.18(8) When determining the committed effective dose equivalent, the following information may be considered:

a. In order to calculate the committed effective dose equivalent, the licensee or registrant may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 5 rem (0.05 Sv) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

b. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 50 rem (0.5 Sv), the intake of radionuclides that would result in a committed effective dose equivalent of 5 rem (0.05 Sv), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee or registrant may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee or registrant shall also demonstrate that the limit in 40.15(1) "a"(2) is met.

641—40.19(136C) Determination of prior occupational dose.

40.19(1) For each individual who is likely to receive, in a year, an occupational dose requiring monitoring pursuant to this rule, the licensee or registrant shall:

a. Determine the occupational radiation dose received during the current year; and

b. Attempt to obtain the records of lifetime cumulative occupational radiation dose.

40.19(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:

a. The internal and external doses from all previous planned special exposures; and

b. All doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual; and

c. All lifetime cumulative occupational radiation dose.

40.19(3) In complying with the requirements of 40.19(1), a licensee or registrant may:

a. Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and

b. Accept, as the record of lifetime cumulative radiation dose, a form signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and

c. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

40.19(4) *a.* The licensee or registrant shall record the exposure history, as required by 40.37(136C). The form or record shall show each period in which the individual received occupational exposure to

radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing the exposure history. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on the report indicating the periods of time for which data are not available.

b. Licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed pursuant to the rules in this chapter in effect on or before January 1, 1994. Further, occupational exposure histories obtained and recorded on or before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

40.19(5) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall assume:

a. In establishing administrative controls pursuant to 40.15(6) for the current year, that the allowable dose limit for the individual is reduced by 1.25 rem (12.5 mSv) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

b. That the individual is not available for planned special exposures.

40.19(6) The licensee or registrant shall retain the records in 641—40.19(136C) until the agency terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing any record for this subrule for three years after the record is made.

641—40.20(136C) Planned special exposures. A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in 40.15(136C) provided that each of the following conditions is satisfied:

40.20(1) The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated to result from the planned special exposure are unavailable or impractical.

40.20(2) The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.

40.20(3) Before a planned special exposure, the licensee or registrant ensures that each individual involved is:

a. Informed of the purpose of the planned operation; and

b. Informed of the estimated doses and associated potential risks and specific radiation levels or other conditions that might be involved in performing the task; and

c. Instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

40.20(4) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant ascertains prior doses as required by 40.19(2) during the lifetime of the individual for each individual involved.

40.20(5) Subject to 40.15(2), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses in excess of the limits to exceed:

a. The numerical values of any of the dose limits in 40.15(1) in any year; and

b. Five times the annual dose limits in 40.15(1) during the individual's lifetime.

40.20(6) The licensee or registrant maintains records of the conduct of a planned special exposure in accordance with 40.85(136C) and submits a written report in accordance with 40.98(136C).

40.20(7) The licensee or registrant records the best estimate of the dose resulting from the planned special exposure in the individual's record and informs the individual, in writing, of the dose within 30 days from the date of the planned special exposure. The dose from planned special exposures shall not be considered in controlling future occupational dose of the individual pursuant to 40.15(1) but shall be included in evaluations required by 40.20(1) and 40.20(2).

641—40.21(136C) Occupational dose limits for minors. The annual occupational dose limits for minors are 10 percent of the annual dose limits specified for adult workers in 40.15(136C).

641—40.22(136C) Dose equivalent to an embryo/fetus.

40.22(1) The licensee or registrant shall ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 0.5 rem (5 mSv). See 40.86(136C) for record-keeping requirements.

40.22(2) The licensee or registrant shall make efforts to avoid substantial variation¹ above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in 40.22(1).

40.22(3) The dose equivalent to an embryo/fetus shall be taken as the sum of:

- a. The deep dose equivalent to the declared pregnant woman; and
- b. The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.

40.22(4) If by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus has exceeded 0.5 rem (5 mSv), or is within 0.05 rem (0.5 mSv) of this dose, the licensee or registrant shall be deemed to be in compliance with 40.22(1) if the additional dose equivalent to the embryo/fetus does not exceed 0.05 rem (0.5 mSv) during the remainder of the pregnancy.

¹ The National Council on Radiation Protection and Measurements recommended in NCRP Report No. 91 "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987) that no more than 0.05 rem (0.5 mSv) to the embryo/fetus be received in any one month.

641—40.23 to 40.25 Reserved.

RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

641—40.26(136C) Dose limits for individual members of the public.

40.26(1) Each licensee or registrant shall conduct operations so that:

a. The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 0.1 rem (1 millisievert) in a year, exclusive of the dose contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 641—subrule 41.2(27), from voluntary participation in medical research programs, and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage under 641—40.72(136C); and

b. The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released under 641—subrule 41.2(27), does not exceed 0.002 rem (0.02 millisievert) in any one hour.

40.26(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

40.26(3) A licensee, registrant, or an applicant for a license or registration may apply for prior agency authorization to operate up to an annual dose limit for an individual member of the public of 0.5 rem (5 mSv). This application shall include the following information:

a. Demonstration of the need for and the expected duration of operations in excess of the limit in 40.26(1); and

b. The licensee's or registrant's program to assess and control dose within the 0.5 rem (5 mSv) annual limit; and

c. The procedures to be followed to maintain the dose ALARA.

40.26(4) In addition to the requirements of this chapter, a licensee or registrant subject to the provisions of the U.S. Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR 190 shall comply with those standards.

40.26(5) The agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

40.26(6) Notwithstanding the requirements of 40.26(1)“a,” a licensee may permit visitors to an individual who cannot be released under 641—subrule 41.2(27) to receive a radiation dose greater than 0.1 rem (1 mSv) if:

- a.* The radiation dose received does not exceed 0.5 rem (5 mSv); and
- b.* The authorized user, as defined in 641—subrule 41.2(2), has determined before the visit that it is appropriate.

641—40.27(136C) Compliance with dose limits for individual members of the public.

40.27(1) The licensee or registrant shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in 40.26(136C).

40.27(2) A licensee or registrant shall show compliance with the annual dose limit in 40.26(136C) by:

a. Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

b. Demonstrating that:

(1) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Table II of Appendix B; and

(2) If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.002 rem (0.02 mSv) in an hour and 0.05 rem (0.5 mSv) in a year.

40.27(3) Upon approval from the agency, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II, for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.

RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

641—40.28(136C) Radiological criteria for license termination.

40.28(1) The criteria in this rule apply to the decommissioning of facilities licensed under 641—Chapter 39, and to the release of part of a facility or site for unrestricted use, as well as other facilities subject to the agency’s jurisdiction under Iowa Code chapter 136C.

40.28(2) The criteria in this rule do not apply to sites which:

a. Have been decommissioned prior to July 1, 1999, in accordance with criteria identified in 641—subrule 39.4(33).

b. Have previously submitted and received agency approval on a license termination plan (LTP) or decommissioning plan that is compatible with the United States Nuclear Regulatory Commission (NRC) Site Decommissioning Management Plan (SDMP) Action Plan criteria; or

c. Submit a sufficient LTP or decommissioning plan prior to July 1, 1999, and such LTP or decommissioning plan is approved by the agency prior to July 1, 1999, except that if an environmental impact statement is required in the submittal, there will be a provision for day-to-day extension.

40.28(3) After a site has been decommissioned and the license terminated in accordance with the criteria in this chapter, or after part of a facility or site has been released for unrestricted use in accordance with this chapter, the agency will require additional cleanup only if, based on new information, it determines that the criteria of this chapter were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

40.28(4) When calculating TEDE to the average member of the critical group the licensee shall determine the peak annual TEDE dose expected within the first 1000 years after decommissioning.

40.28(5) Public notification and public participation. Upon the receipt of an LTP or decommissioning plan from the licensee or a proposal by the licensee for release of a site pursuant to 40.30(136C) or 40.31(136C) or whenever the agency deems such notice to be in the public interest, the agency shall:

a. Notify and solicit comments from:

(1) Local and state governments in the vicinity of the site and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

(2) The Environmental Protection Agency for cases where the licensee proposes to release a site pursuant to 40.31(136C).

b. Publish a notice in the Iowa Administrative Bulletin and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

40.28(6) Minimization of contamination. Applicants for licenses, other than renewals, after July 1, 1999, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

641—40.29(136C) Radiological criteria for unrestricted use. A site will be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed 25 mrem (0.25 mSv) per year, including that from groundwater sources of drinking water, and the residual radioactivity has been reduced to levels that are ALARA. Determination of the levels which are ALARA must take into account consideration of any detriments, such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.

641—40.30(136C) Criteria for license termination under restricted conditions. A site will be considered acceptable for license termination under restricted conditions if:

40.30(1) The licensee can demonstrate that reductions in residual radioactivity necessary to comply with the provisions of 40.29(136C) would result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA. Determination of the levels which are ALARA must take into account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal;

40.30(2) The licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) per year;

40.30(3) The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:

a. Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as described in 641—subparagraph 39.4(26) "f"(1);

b. Surety method, insurance or other guarantee method as described in 641—subparagraph 39.4(26) "f"(2);

c. A statement of intent in the case of federal, state, or local government licensees, as described in 641—subparagraph 39.4(26) "f"(4); or

d. When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

40.30(4) The licensee has submitted a decommissioning plan or license termination plan (LTP) to the agency indicating the licensee's intent to decommission in accordance with 641—paragraph 39.4(33) "d" and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in

the community, who may be affected by the decommissioning, has been sought and incorporated, as appropriate, following analysis of that advice. Licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

a. Whether provisions for institutional controls proposed by the licensee:

(1) Will provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) per year;

(2) Will be enforceable; and

(3) Will not impose undue burdens on the local community or other affected parties.

b. Whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site;

c. In seeking advice on the issues identified in 40.30(4) “*a*,” the licensee shall provide for:

(1) Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

(2) An opportunity for a comprehensive, collective discussion of the issues by the participants represented; and

(3) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

40.30(5) Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed either:

a. 100 mrem (1 mSv) per year; or

b. 500 mrem (5 mSv) per year provided the licensee:

(1) Demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/yr (1 mSv/yr) value of 40.30(5) “*a*” are not technically achievable, would be prohibitively expensive, or would result in net public or environmental harm;

(2) Makes provisions for durable institutional controls; and

(3) Provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every five years to ensure that the institutional controls remain in place as necessary to meet the criteria of 40.30(2) and to assume and carry out responsibilities for any necessary controls and maintenance of those controls. Acceptable financial assurance mechanisms are those in subrule 40.30(3).

641—40.31(136C) Alternate criteria for license termination.

40.31(1) The agency may terminate a license using alternate criteria greater than the dose criterion of 641—40.29(136C), 40.30(2) and 40.30(4) “*a*”(1) if the licensee:

a. Provides assurance that public health and safety would continue to be protected and that it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 100 mrem/yr (1 mSv/yr) by submitting an analysis of possible sources of exposure;

b. Has employed, to the extent practical, restrictions on site use according to the provisions of 641—40.30(136C) in minimizing exposures at the site;

c. Reduces doses to ALARA levels taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal; and

d. Has submitted a decommissioning plan or license termination plan (LTP) to the agency indicating the licensee’s intent to decommission in accordance with 641—paragraph 39.4(33) “*d*,” and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions

in the community, who may be affected by the decommissioning, has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

- (1) Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;
- (2) An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and
- (3) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues.

40.31(2) The use of alternate criteria to terminate a license requires the approval of the agency after consideration of the staff's recommendations that will address any comments provided by the Environmental Protection Agency and any public comments submitted pursuant to 40.32(136C).

TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

641—40.32(136C) Testing for leakage or contamination of sealed sources.

40.32(1) The licensee in possession of any sealed source shall ensure that:

a. Each sealed source, except as specified in 40.32(2), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee.

b. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, after evaluation of information specified by 641—subparagraphs 39.4(29)“l”(4) and 39.4(29)“l”(5) of these rules, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.

c. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, after evaluation of information specified by 641—subparagraphs 39.4(29)“l”(4) and 39.4(29)“l”(5) of these rules, an Agreement State, a Licensing State, or the Nuclear Regulatory Commission.

d. For each sealed source that is required to be tested for leakage or contamination, at any other time there is reason to suspect that the sealed source might have been damaged or might be leaking, the licensee or registrant shall ensure that the sealed source is tested for leakage or contamination before further use.

e. Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, shall be capable of detecting the presence of 0.005 μCi (185 Bq) of radioactive material on a test sample. Test samples shall be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples are obtained when the source is in the “off” position.

f. The test for leakage for brachytherapy sources manufactured to contain radium shall be capable of detecting an absolute leakage rate of 0.001 μCi (37 Bq) of radon-222 in a 24-hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time.

g. Tests for contamination from radium daughters shall be taken on the interior surface of brachytherapy source storage containers and shall be capable of detecting the presence of 0.005 μCi (185 Bq) of a radium daughter which has a half-life greater than four days.

40.32(2) A licensee need not perform tests for leakage or contamination on the following sealed sources:

- a.* Sealed sources containing only radioactive material with a half-life of less than 30 days;
- b.* Sealed sources containing only radioactive material as a gas;
- c.* Sealed sources containing 100 μCi (3.7 MBq) or less of beta- or photon-emitting material or 10 μCi (370 kBq) or less of alpha-emitting material;
- d.* Sealed sources containing only hydrogen-3;

e. Seeds of iridium-192 encased in nylon ribbon; and
f. Sealed sources, except those used in teletherapy and brachytherapy and those containing radium, which are stored, not being used and identified as in storage. The licensee shall, however, test each such sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.

40.32(3) Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by the agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services.

40.32(4) Test results shall be kept in units of microcurie or becquerel and maintained for inspection by the agency.

40.32(5) The following shall be considered evidence that a sealed source is leaking:

- a.* The presence of 0.005 μCi (185 Bq) or more of removable contamination on any test sample.
- b.* Leakage of 0.001 μCi (37 Bq) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
- c.* The presence of removable contamination resulting from the decay of 0.005 μCi (185 Bq) or more of radium.

40.32(6) The licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this chapter.

40.32(7) Reports of test results for leaking or contaminated sealed sources shall be made pursuant to 40.102(136C).

641—40.33 to 40.35 Reserved.

SURVEYS AND MONITORING

641—40.36(136C) Surveys and monitoring—general.

40.36(1) Each licensee or registrant shall make, or cause to be made, surveys that:

- a.* Are necessary for the licensee or registrant to comply with this chapter; and
- b.* Are necessary under the circumstances to evaluate:
 - (1) The magnitude and extent of radiation levels; and
 - (2) Concentrations or quantities of radioactive material; and
 - (3) The potential radiological hazards that could be present.

40.36(2) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements, for example, dose rate and effluent monitoring, are calibrated at intervals not to exceed 12 months for the radiation measured except when a more frequent interval is specified in another applicable part of these rules or a license condition.

40.36(3) All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with 40.15(136C), with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:

- a.* Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and
- b.* Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

40.36(4) The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

40.36(5) After replacement, each personnel dosimeter must be sent for processing as soon as possible.

641—40.37(136C) Conditions requiring individual monitoring of external and internal occupational dose. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this chapter. As a minimum:

40.37(1) Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

a. Adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in 40.15(1);

b. Minors likely to receive, in 1 year from sources external to the body, a deep dose equivalent in excess of 0.15 rem (1.5 mSv), or a shallow dose equivalent to the skin or to the extremities in excess of 0.5 rem (1 mSv);

c. Individuals entering a high or very high radiation area;

d. Individuals working with medical fluoroscopic equipment; and

e. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 0.1 rem (1 mSv).

40.37(2) Each licensee or registrant shall monitor, to determine compliance with 40.18(136C), the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

a. Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;

b. Minors likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.1 rem (1 mSv); and

c. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 0.1 rem (1 mSv).

40.37(3) Location of individual monitoring devices. Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with 40.37(136C) wear individual monitoring devices as follows:

a. An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded portion of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device shall be near the midline of the body, under the apron;

b. An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman shall be located at the waist under any protective apron being worn by the woman;

c. An individual monitoring device used for monitoring the eye dose equivalent, to demonstrate compliance with 40.15(136C) shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;

d. An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with 40.15(136C), shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored.

641—40.38 to 40.41 Reserved.

CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

641—40.42(136C) Control of access to high radiation areas.

40.42(1) The licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:

a. A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep dose equivalent of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from the source of radiation from any surface that the radiation penetrates; or

b. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

c. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

40.42(2) In place of the controls required by 40.42(1) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

40.42(3) The licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.

40.42(4) The licensee or registrant shall establish the controls required by 40.42(1) and 40.42(3) in a way that does not prevent individuals from leaving a high radiation area.

40.42(5) The licensee is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the rules of the U.S. Department of Transportation provided that:

a. The packages do not remain in the area longer than three days; and

b. The dose rate at 1 meter from the external surface of any package does not exceed 0.01 rem (0.1 mSv) per hour.

40.42(6) The licensee is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in this chapter and to operate within the ALARA provisions of the licensee's radiation protection program.

40.42(7) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in 641—40.42(136C) if the registrant has met all the specific requirements for access and control specified in other applicable chapters such as 641—Chapter 45 for industrial radiography, 641—Chapter 41 for X-rays in the healing arts, and 641—Chapter 41 for particle accelerators.

641—40.43(136C) Control of access to very high radiation areas.

40.43(1) In addition to the requirements in 40.42(136C), the licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 500 rad (5 Gy) or more in 1 hour at 1 meter from a source of radiation or any surface through which the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic X-ray systems are the only source of radiation, or to non-self-shielded irradiators.

40.43(2) The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in 40.43(1) if the registrant has met all the specific requirements for access and control specified in other applicable chapters such as 641—Chapter 45 for industrial radiography, 641—Chapter 41 for X-rays in the healing arts, and 641—Chapter 41 for particle accelerators.

641—40.44(136C) Control of access to very high radiation areas—irradiators.

40.44(1) This rule applies to licensees with sources of radiation in non-self-shielded irradiators. This rule does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

40.44(2) Each area in which there may exist radiation levels in excess of 500 rad (5 Gy) in 1 hour at 1 meter from a source of radiation that is used to irradiate materials shall meet the following requirements:

- a.* Each entrance or access point shall be equipped with entry control devices which:
- (1) Function automatically to prevent any individual from inadvertently entering a very high radiation area; and
 - (2) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour; and
 - (3) Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep dose equivalent to an individual in excess of 0.1 rem (1 mSv) in 1 hour.
- b.* Additional control devices shall be provided so that, upon failure of the entry control devices to function as required by 40.44(2)“*a*”:
- (1) The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour; and
 - (2) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.
- c.* The licensee shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source’s shielded storage container:
- (1) The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour; and
 - (2) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.
- d.* When the shield for stored sealed sources is a liquid, the licensee shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
- e.* Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of 40.44(2)“*c*” and 40.44(2)“*d*.”
- f.* Each area shall be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source of radiation from being put into operation.
- g.* Each area shall be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the source of radiation.
- h.* Each area shall be checked by a radiation measurement to ensure that, prior to the first individual’s entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area is below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour.
- i.* The entry control devices required in 40.44(2)“*a*” shall be tested for proper functioning. See 40.89(136C) for record-keeping requirements.
- (1) Testing shall be conducted prior to initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day; and
 - (2) Testing shall be conducted prior to resumption of operation of the source of radiation after any unintentional interruption; and
 - (3) The licensee or registrant shall submit and adhere to a schedule for periodic tests of the entry control and warning systems.
- j.* The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in safe condition or to effect repairs on controls, unless control devices are functioning properly.

k. Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, shall be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any loose radioactive material that is carried toward such an exit and to automatically prevent loose radioactive material from being carried out of the area.

40.44(3) Licensees, registrants, or applicants for licenses or registrations for sources of radiation within the purview of 40.44(2) which will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of 40.44(2), such as those for the automatic control of radiation levels, may apply to the Agency for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in 40.44(2). At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

40.44(4) The entry control devices required by 40.44(2) and 40.44(3) shall be established in such a way that no individual will be prevented from leaving the area.

641—40.45 to 40.47 Reserved.

RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT
INTERNAL EXPOSURE IN RESTRICTED AREAS

641—40.48(136C) Use of process or other engineering controls. The licensee shall use, to the extent practical, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentrations of radioactive material in air.

641—40.49(136C) Use of other controls.

40.49(1) When it is not practical to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one or more of the following means:

- a.* Control of access;
- b.* Limitation of exposure times;
- c.* Use of respiratory protection equipment; or
- d.* Other controls.

40.49(2) If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee should also consider the impact of respirator use on workers' industrial health and safety.

641—40.50(136C) Use of individual respiratory protection equipment.

40.50(1) If the licensee assigns or permits the use of respiratory protection equipment to limit intakes pursuant to 40.49(136C):

- a.* The licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH), except as otherwise noted in this subrule.
- b.* If the licensee wishes to use equipment that has not been tested or certified by the National Institute for Occupational Safety and Health or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

- c.* The licensee or registrant shall implement and maintain a respiratory protection program that includes:

- (1) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
- (2) Surveys and bioassays, as appropriate, to evaluate actual intakes;
- (3) Testing of respirators for operability (user seal check for face sealing devices and functional check for others) immediately prior to each use;
- (4) Written procedures regarding monitoring, including air sampling and bioassays; supervision and training of respirator user; fit testing; respirator selection; breathing air quality; inventory and control; storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment; record keeping; and limitations on periods of respirator use and relief from respirator use;
- (5) Determination by a physician that the individual user is medically fit to use respiratory protection equipment: before the initial fitting of a face-sealing respirator; before the first field use of non-face-sealing respirators; and either every 12 months thereafter, or periodically at a frequency determined by a physician; and
- (6) Fit testing, with a fit factor equal to or greater than 10 times the APF for negative pressure devices, and a fit factor equal to or greater than 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight-fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode.

d. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

e. The licensee shall also consider limitations appropriate to the type and mode of use. When selecting respiratory devices, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in such a way as not to interfere with the proper operation of the respirator.

f. Standby rescue persons are required whenever one-piece atmosphere-supplying suits or any combination of supplied air respiratory protection devices and personnel protection equipment is used from which an unaided individual would have difficulty extricating himself or herself. The standby rescue persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons shall observe or otherwise maintain continuous communication (visual, voice, signal line, telephone, radio, or other suitable means) with the workers, and be immediately available to assist the workers in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons must be immediately available to assist all users of this type of equipment and to provide effective emergency rescue if needed.

g. Atmosphere-supplying respirators must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997, and included in the regulations of the Occupational Safety and Health Administration (29 CFR 1910.134(i)(1)(ii)(A) through (E)). Grade D quality air criteria include:

- (1) Oxygen content (v/v) of 19.5 to 23.5 percent;
- (2) Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
- (3) Carbon monoxide (CO) content of 10 ppm or less;
- (4) Carbon dioxide content of 1000 ppm or less; and
- (5) Lack of noticeable odor.

h. The licensee shall ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face, facepiece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

i. In the estimation of the dose to individuals from intake of airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially

assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the corrected value must be used. If the dose is later found to be less than the estimated dose, the corrected value may be used.

40.50(2) When estimating exposure of individuals to airborne radioactive materials, the licensee may make allowance for respiratory protection equipment used to limit intakes pursuant to 40.49(136C), provided that the following conditions, in addition to those in 40.50(1), are satisfied:

a. The licensee selects respiratory protection equipment that provides a protection factor, specified in Appendix A, greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Appendix B, Table I, Column 3. However, if the selection of respiratory protection equipment with a protection factor greater than the multiple defined in the preceding sentence is inconsistent with the goal specified in 40.49(136C) of keeping the total effective dose equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor provided that such a selection would result in a total effective dose equivalent that is ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.

b. The licensee shall obtain authorization from the agency before assigning respiratory protection factors in excess of those specified in Appendix A. The agency may authorize a licensee to use higher protection factors on receipt of an application that:

- (1) Describes the situation for which a need exists for higher protection factors, and
- (2) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

40.50(3) In an emergency, the licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration.

40.50(4) Further restrictions.

a. The licensee shall notify the agency in writing at least 30 days before the date that respiratory protection equipment is first used pursuant to either 40.50(1) or 40.50(2).

b. The agency may impose restrictions in addition to those listed in these rules in order to:

- (1) Ensure that the respiratory protection program of the licensee is adequate to limit doses to individuals from intakes of airborne radioactive materials consistent with maintaining total effective dose equivalent ALARA; and
- (2) Limit the extent to which a licensee may use respiratory protection equipment instead of process or other engineering controls.

641—40.51 to 40.53 Reserved.

STORAGE AND CONTROL OF LICENSED OR REGISTERED
SOURCES OF RADIATION

641—40.54(136C) Security and control of licensed radioactive material in quantities of concern. Rescinded **ARC 1479C**, IAB 6/11/14, effective 7/16/14.

641—40.55(136C) Security and control of licensed or registered sources of radiation.

1. The licensee or registrant shall secure licensed or registered radioactive material that is stored in controlled or unrestricted areas from unauthorized removal or access.
2. The licensee or registrant shall maintain constant surveillance and use devices or administrative procedures to prevent unauthorized use of licensed or registered radioactive material that is in an unrestricted area and that is not in storage.
3. The registrant shall secure registered radiation machines from unauthorized removal.

4. The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

5. Security requirements for portable gauges. Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

641—40.56(136C) Control of sources of radiation not in storage. Rescinded IAB 4/8/98, effective 7/1/98.

641—40.57 to 40.59 Reserved.

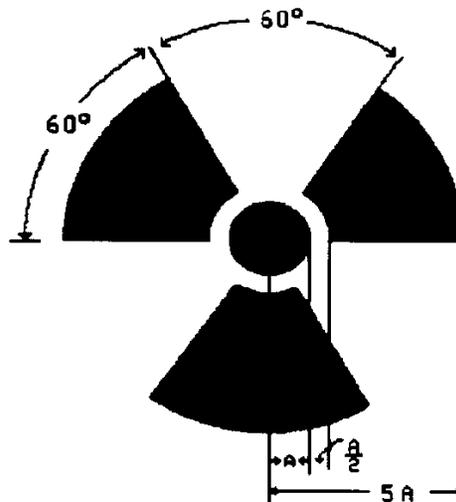
PRECAUTIONARY PROCEDURES

641—40.60(136C) Caution signs.

40.60(1) Standard radiation symbol. Unless otherwise authorized by the agency, the symbol prescribed by this rule shall use the colors magenta, or purple, or black on yellow background. The symbol prescribed is the three-bladed design as follows:

RADIATION SYMBOL

1. Cross-hatched area is to be magenta, or purple, or black, and
2. The background is to be yellow.



40.60(2) Exception to color requirements for standard radiation symbol. Notwithstanding the requirements of 40.60(1), licensees are authorized to label sources, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

40.60(3) Additional information on signs and labels. In addition to the contents of signs and labels prescribed in this chapter, the licensee or registrant shall provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

40.60(4) Improper posting or labeling. The licensee or registrant shall ensure that adequate measures are taken to prevent improper posting or labeling.

641—40.61(136C) Posting requirements.

40.61(1) Posting of radiation areas. The licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words “CAUTION, RADIATION AREA”.

40.61(2) Posting of high radiation areas. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words “CAUTION, HIGH RADIATION AREA” or “DANGER, HIGH RADIATION AREA”.

40.61(3) Posting of very high radiation areas. The licensee or registrant shall post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words “GRAVE DANGER, VERY HIGH RADIATION AREA”.

40.61(4) Posting of airborne radioactivity areas. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words “CAUTION, AIRBORNE RADIOACTIVITY AREA” or “DANGER, AIRBORNE RADIOACTIVITY AREA”.

40.61(5) Posting of areas or rooms in which licensed or registered material is used or stored. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding ten times the quantity of such material specified in Appendix C with a conspicuous sign or signs bearing the radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL(S)” or “DANGER, RADIOACTIVE MATERIAL(S)”.

641—40.62(136C) Exceptions to posting requirements.

40.62(1) A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:

a. The sources of radiation are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to sources of radiation in excess of the limits established in this chapter; and

b. The area or room is subject to the licensee’s or registrant’s control.

40.62(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to 40.61(136C) provided that the patient could be released from licensee control pursuant to 641—subrule 41.2(27).

40.62(3) A room or area is not required to be posted with a caution sign because of the presence of a sealed source provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.005 rem (0.05 mSv) per hour.

40.62(4) A room or area is not required to be posted with a caution sign because of the presence of radiation machines used solely for diagnosis or simulation in the healing arts.

40.62(5) Rooms in hospitals or clinics that are used for teletherapy are exempt from the requirement to post caution signs under 641—40.61(136C) if:

a. Access to the room is controlled pursuant to 641—subrule 41.2(53); and

b. Personnel in attendance take necessary precautions to prevent an inadvertent exposure of workers, other patients, and members of the public to radiation in excess of the limits established in this chapter.

641—40.63(136C) Labeling containers and radiation machines.

40.63(1) The licensee shall ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words “CAUTION, RADIOACTIVE MATERIAL” or “DANGER, RADIOACTIVE MATERIAL”. The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment, to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

40.63(2) Each licensee shall, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

40.63(3) Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

641—40.64(136C) Exemptions to labeling requirements. A licensee is not required to label:

40.64(1) Containers holding licensed materials in quantities less than the quantities listed in Appendix C; or

40.64(2) Containers holding licensed material in concentrations less than those specified in Table III of Appendix B; or

40.64(3) Containers attended by an individual who takes the precautions necessary to prevent the exposure of individuals in excess of the limits established by this chapter; or

40.64(4) Containers when they are in transport and packaged and labeled in accordance with the rules of the U.S. Department of Transportation; or

40.64(5) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record. Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells. The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

40.64(6) Installed manufacturing or process equipment, such as piping and tanks.

¹ Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by U.S. Department of Transportation regulations 49 CFR 173.403(m) and (w) and 173.421-424.

641—40.65(136C) Procedures for receiving and opening packages.

40.65(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity shall make arrangements to receive:

a. The package when the carrier offers it for delivery; or

b. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

40.65(2) Each licensee shall:

a. Monitor the external surfaces of a labeled¹ package for radioactive contamination unless the package contains only radioactive material in the form of gas or in special form as defined in 641—Chapter 38;

b. Monitor the external surfaces of a labeled¹ package for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity; and

c. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

40.65(3) The licensee shall perform the monitoring required by 40.65(2) as soon as practicable after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.

40.65(4) The licensee shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Agency when:

a. Removable radioactive surface contamination exceeds the limits of 49 CFR 173.443; or

b. External radiation levels exceed the limits of 10 CFR 71.47 as set forth in rule 641—39.5(136C).

40.65(5) Each licensee shall:

a. Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

b. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

40.65(6) Licensees transferring special form sources in vehicles owned or operated by the licensee or registrant to and from a work site are exempt from the contamination monitoring requirements of

40.65(2), but are not exempt from the monitoring requirement in 40.65(2), for measuring radiation levels that ensure that the source is still properly lodged in its shield.

¹ Labeled with a Radioactive e White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations 49 CFR 172.403 and 172.436-440.

641—40.66 to 40.69 Reserved.

WASTE DISPOSAL

641—40.70(136C) General requirements.

40.70(1) A licensee shall dispose of licensed material only:

- a. By transfer to an authorized recipient as provided in 40.74(136C) or 641—39.4(136C), or to the U.S. Department of Energy; or
- b. By decay in storage; or
- c. By release in effluents within the limits in 40.72(1) “d”; or
- d. As authorized pursuant to 641—40.71(136C), 641—40.72(136C), 641—40.73(136C), 641—40.74(136C), or 641—40.77(136C).

40.70(2) A person shall be specifically licensed to receive waste containing licensed material from other persons for:

- a. Treatment prior to disposal; or
- b. Treatment or disposal by incineration; or
- c. Decay in storage; or
- d. Storage until transferred to a storage or disposal facility authorized to receive the waste.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.71(136C) Method for obtaining approval of proposed disposal procedures. A licensee or applicant for a license may apply to the Agency for approval of proposed procedures, not otherwise authorized in these rules, to dispose of licensed material generated in the licensee’s operations. Each application shall include:

40.71(1) A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation, and the proposed manner and conditions of waste disposal; and

40.71(2) An analysis and evaluation of pertinent information on the nature of the environment; and

40.71(3) The nature and location of other potentially affected facilities; and

40.71(4) Analyses and procedures to ensure that doses are maintained ALARA and within the dose limits in this chapter.

641—40.72(136C) Disposal by release into sanitary sewerage.

40.72(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

- a. The material is readily soluble, or is readily dispersible biological material, in water; and
- b. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table III of Appendix B; and

c. If more than one radionuclide is released, the following conditions must also be satisfied:

(1) The licensee shall determine the fraction of the limit in Table III of Appendix B represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table III of Appendix B; and

(2) The sum of the fractions for each radionuclide required by 40.72(1) “c”(1) does not exceed unity; and

d. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 5 Ci (185 GBq) of hydrogen-3, 1 Ci (37 GBq) of carbon-14, and 1 Ci (37 GBq) of all other radioactive materials combined.

40.72(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in 40.72(1).

641—40.73(136C) Treatment or disposal by incineration. A licensee may treat or dispose of licensed materials by incineration only in the amounts and forms specified in 40.74(136C) or as specifically approved by the Agency pursuant to 40.71(136C).

641—40.74(136C) Disposal of specific wastes.

40.74(1) A licensee may dispose of the following licensed material as if it were not radioactive:

a. 0.05 μ Ci (1.85 kBq), or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

b. 0.05 μ Ci (1.85 kBq), or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

40.74(2) A licensee shall not dispose of tissue pursuant to 40.74(1) “*b*” in a manner that would permit its use either as food for humans or as animal feed.

40.74(3) The licensee shall maintain records in accordance with 40.88(136C).

641—40.75(136C) Transfer for disposal and manifests.

40.75(1) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on the Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with Appendix D of this chapter.

40.75(2) Each shipment manifest must include a certification by the waste generator as specified in Section II of Appendix D of this chapter.

40.75(3) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in Section III of Appendix D of this chapter.

40.75(4) Any licensee shipping licensed material, as defined in paragraphs “3” and “4” of the definition of “by-product material” set forth in 641—Chapter 38, intended for ultimate disposal at a land disposal facility licensed under 10 CFR Part 61 must document the information required on the Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with Appendix D of this chapter.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.76(136C) Compliance with environmental and health protection regulations. Nothing in 40.70(136C), 40.71(136C), 40.72(136C), 40.73(136C), 40.74(136C), or 40.75(136C) relieves the licensee or registrant from complying with other applicable federal, state and local regulations governing any other toxic or hazardous properties of materials that may be disposed of to 40.70(136C), 40.71(136C), 40.72(136C), 40.73(136C), 40.74(136C), or 40.75(136C).

641—40.77(136C) Disposal of certain by-product material.

40.77(1) Licensed material, as defined in paragraphs “3” and “4” of the definition of “by-product material” set forth in 641—Chapter 38, may be disposed of in accordance with 10 CFR Part 61, even though the material is not defined as low-level radioactive waste. Therefore, any licensed by-product material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed under 10 CFR Part 61, must meet the requirements of 641—40.75(136C).

40.77(2) A licensee may dispose of licensed material, as defined in paragraphs “3” and “4” of the definition of “by-product material” set forth in 641—Chapter 38, at a disposal facility authorized to

dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.78 and 40.79 Reserved.

RECORDS

641—40.80(136C) General provisions.

40.80(1) Each licensee or registrant shall use the special units curie, rad, rem and roentgen, counts per minute (cpm), disintegrations per minute (dpm), or the SI units becquerel, gray, sievert and coulomb per kilogram, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this chapter.

40.80(2) The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this chapter, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

40.80(3) In the records required by this chapter, the licensee may record quantities in SI units in parentheses following each of the units specified in 40.80(1). However, all quantities must be recorded as stated in 40.80(1).

40.80(4) Notwithstanding the requirements of 40.80(1), when recording information on shipment manifests, as required in 641—40.75(136C), information must be recorded in the International System of Units (SI) or in SI and units as specified in 40.80(1).

40.80(5) Notwithstanding the requirements of 40.80(1), records of removable radioactive surface contamination on packages shall be recorded in disintegrations per minute (dpm).

641—40.81(136C) Records of radiation protection programs.

40.81(1) Each licensee or registrant shall maintain records of the radiation protection program, including:

- a. The provisions of the program; and
- b. Audits and other reviews of program content and implementation.

40.81(2) The licensee or registrant shall retain the records required by 40.81(1) “a” until the Agency terminates each pertinent license or registration requiring the record. The licensee or registrant shall retain the records required by 40.81(1) “b” for three years after the record is made.

641—40.82(136C) Records of surveys.

40.82(1) Each licensee or registrant shall maintain records showing the results of surveys and calibrations required by 40.36(136C) and 40.65(2). The licensee or registrant shall retain these records for three years after the record is made.

40.82(2) The licensee or registrant shall retain each of the following records until the Agency terminates each pertinent license or registration requiring the record:

- a. Records of the results of surveys to determine the dose from external sources of radiation used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents; and
- b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose; and
- c. Records showing the results of air sampling, surveys, and bioassays required pursuant to 40.50(1) “c”(1) and 40.50(1) “c”(2); and
- d. Records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment.

40.82(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records required in 641—40.82(136C) or shall make provisions with the agency for transfer to the agency.

641—40.83(136C) Records of tests for leakage or contamination of sealed sources. Records of tests for leakage or contamination of sealed sources required by 40.32(136C) shall be kept in units of microcurie or becquerel and maintained for inspection by the agency for five years after the records are made.

641—40.84(136C) Records of prior occupational dose.

40.84(1) The licensee or registrant shall retain the records of prior occupational dose and exposure history as specified in 40.19(136C) until the agency terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing the record required in 40.84(136C) for three years after the record is made.

40.84(2) Upon termination of the license or registration, the licensee or registrant shall permanently store records required in 40.84(136C) or shall make provisions with the agency for transfer to the agency.

641—40.85(136C) Records of planned special exposures.

40.85(1) For each use of the provisions of 40.20(136C) for planned special exposures, the licensee or registrant shall maintain records that describe:

- a. The exceptional circumstances requiring the use of a planned special exposure; and
- b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization; and
- c. What actions were necessary; and
- d. Why the actions were necessary; and
- e. What precautions were taken to assure that doses were maintained ALARA; and
- f. What individual and collective doses were expected to result; and
- g. The doses actually received in the planned special exposure.

40.85(2) The licensee or registrant shall retain the records until the agency terminates each pertinent license or registration requiring these records.

40.85(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records required in 40.85(136C) or shall make provisions with the agency for transfer to the agency.

641—40.86(136C) Records of individual monitoring results.

40.86(1) Record-keeping requirement. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring was required pursuant to 40.37(136C), and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect on or before January 1, 1994, need not be changed. These records shall include, when applicable:

- a. The deep dose equivalent to the whole body, eye dose equivalent, shallow dose equivalent to the skin, and shallow dose equivalent to the extremities; and
- b. The estimated intake of radionuclides, see 40.16(136C); and
- c. The committed effective dose equivalent assigned to the intake of radionuclides; and
- d. The specific information used to calculate the committed effective dose equivalent pursuant to 40.18(3); and
- e. The total effective dose equivalent when required by 40.16(136C); and
- f. The total of the deep dose equivalent and the committed dose to the organ receiving the highest total dose.

40.86(2) Record-keeping frequency. The licensee or registrant shall make entries of the records specified in 40.86(1) at intervals not to exceed one year.

40.86(3) Record-keeping format. The licensee or registrant shall maintain the records specified in 40.86(1) in clear and legible form.

40.86(4) Embryo/Fetus records. The licensee or registrant shall maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file, but may be maintained separately from the dose records.

40.86(5) Retention during license or registration. The licensee or registrant shall retain each required form or record until the agency terminates each pertinent license or registration requiring the record.

40.86(6) Retention after termination. Upon termination of the license or registration, the licensee or registrant shall permanently store records required in 40.86(136C) or shall make provision with the agency for transfer to the agency.

641—40.87(136C) Records of dose to individual members of the public.

40.87(1) Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public. See 40.26(136C).

40.87(2) The licensee or registrant shall retain the records required by this rule until the agency terminates each pertinent license or registration requiring the record.

641—40.88(136C) Records of waste disposal.

40.88(1) Each licensee shall maintain records of the disposal of licensed materials made pursuant to 40.71(136C), 40.72(136C), 40.73(136C), 40.74(136C), and disposal or burial in soil.

40.88(2) The licensee shall retain the records required by 40.88(1) until the agency terminates each pertinent license or registration requiring the record.

641—40.89(136C) Records of testing entry control devices for very high radiation areas.

40.89(1) Each licensee or registrant shall maintain records of tests made pursuant to 40.44(2) “j” on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

40.89(2) The licensee or registrant shall retain the records required by 40.89(1) for three years after the record is made.

641—40.90(136C) Form of records.

40.90(1) Each record required by Chapter 40 shall be legible throughout the specified retention period. The record shall be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period, or the record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

40.90(2) The licensee or registrant shall retain the records required by Chapter 40 until the agency terminates each pertinent license or registration requiring the record.

641—40.91 to 40.94 Reserved.

REPORTS

641—40.95(136C) Reports of stolen, lost, or missing licensed or registered sources of radiation.

40.95(1) Telephone reports. Each licensee or registrant shall report to the agency by telephone as follows:

a. Immediately after its occurrence becomes known to the licensee, stolen, lost, or missing licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C under such circumstances that it appears to the licensee that an exposure could result to individuals in unrestricted areas; or

b. Within 30 days after its occurrence becomes known to the licensee, lost, stolen, or missing licensed radioactive material in quantity greater than ten times the quantity specified in Appendix C that is still missing.

c. Immediately after its occurrence becomes known to the registrant, a stolen, lost, or missing radiation machine.

d. Rescinded IAB 3/30/05, effective 5/4/05.

40.95(2) Written reports. Each licensee or registrant required to make a report pursuant to 40.95(1) shall, within 30 days after making the telephone report, make a written report to the agency setting forth the following information:

a. A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model and serial number, type and maximum energy of radiation emitted; and

b. A description of the circumstances under which the loss or theft occurred; and

c. A statement of disposition, or probable disposition, of the licensed or registered source of radiation involved; and

d. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

e. Actions that have been taken, or will be taken, to recover the source of radiation; and

f. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

40.95(3) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

40.95(4) The licensee or registrant shall prepare any report filed with the agency pursuant to 40.95(136C) so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

641—40.96(136C) Notification of incidents.

40.96(1) Immediate notification. Notwithstanding other requirements for notification, each licensee or registrant shall immediately report each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

a. An individual to receive:

(1) A total effective dose equivalent of 25 rem (0.25 Sv) or more; or

(2) A lens dose equivalent of 75 rem (0.75 Sv) or more; or

(3) A shallow dose equivalent to the skin or extremities of 250 rad (2.5 Gy) or more; or

b. The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the annual limit on intake. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.

c. In addition to the requirements of paragraphs “*a*” and “*b*” above, each licensee shall notify the Iowa department of public health as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, and other such events).

40.96(2) Twenty-four-hour notification. Each licensee or registrant shall, within 24 hours of discovery of the event, report to the agency each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

a. An individual to receive, in a period of 24 hours:

(1) A total effective dose equivalent exceeding 5 rem (0.05 Sv); or

(2) A lens dose equivalent exceeding 15 rem (0.15 Sv); or

(3) A shallow dose equivalent to the skin or extremities exceeding 50 rem (0.5 Sv); or

b. The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one

occupational ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.

c. In addition to the requirements of paragraphs “a” and “b” above, each licensee shall notify the Iowa department of public health within 24 hours after the discovery of any of the following events involving licensed material:

- (1) An unplanned contamination event that:
 1. Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;
 2. Involves a quantity of material greater than five times the lowest annual limit on intake specified in Appendix B for the material; and
 3. Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.
- (2) An event in which equipment is disabled or fails to function as designed when:
 1. The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;
 2. The equipment is required to be available and operable when it is disabled or fails to function; and
 3. No redundant equipment is available and operable to perform the required safety function.
- (3) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual’s clothing or body.
- (4) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
 1. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B for the material; and
 2. The damage affects the integrity of the licensed material or its container.

40.96(3) The licensee or registrant shall prepare each report filed with the agency pursuant to 40.96(136C) so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

40.96(4) Licensees or registrants shall make the reports required by 40.96(1) and 40.96(2) to the agency by telephone, telegram, mailgram, or facsimile.

a. Licensees or registrants making initial reports to the Iowa department of public health shall to the extent that the information is available at the time of notification include:

- (1) The caller’s name and call-back telephone number;
- (2) A description of the event, including date and time;
- (3) The exact location of the event;
- (4) The isotopes, quantities, and chemical and physical form of the licensed material involved; and
- (5) Any personnel radiation exposure data available.

b. Each licensee or registrant who makes a report required by 40.96(1) or 40.96(2) shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other rules may be submitted to fulfill this requirement if the reports contain all of the necessary information. These written reports must be sent to the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, Des Moines, Iowa 50319. The reports must include the following:

- (1) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
- (2) The exact location of the event;
- (3) The isotopes, quantities, and chemical and physical form of the licensed material involved;
- (4) Date and time of the event;
- (5) Corrective actions taken or planned and the results of any evaluations or assessments; and
- (6) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

40.96(5) The provisions of 641—40.96(136C) do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported pursuant to 641—40.98(136C).

641—40.97(136C) Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits.

40.97(1) Reportable events. In addition to the notification required by 40.96(136C), each licensee or registrant shall submit a written report within 30 days after learning of any of the following occurrences:

- a.* Incidents for which notification is required by 40.96(136C); or
- b.* Doses in excess of any of the following:
 - (1) The occupational dose limits for adults in 40.15(136C); or
 - (2) The occupational dose limits for a minor in 40.21(136C); or
 - (3) The limits for an individual member of the public in 40.26(136C); or
 - (4) Any applicable limit in the license or registration; or
 - (5) The ALARA constraints for air emissions established under 641—40.10(136C); or
 - (6) The limits for an embryo/fetus of a declared pregnant woman in 40.22(136C).
- c.* Levels of radiation or concentrations of radioactive material in:
 - (1) A restricted area in excess of applicable limits in the license or registration; or
 - (2) An unrestricted area in excess of ten times the applicable limit set forth in this chapter or in the license or registration, whether or not involving exposure of any individual in excess of the limits in 40.26(136C); or
- d.* For licensees subject to the provisions of U.S. Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

40.97(2) Contents of reports.

a. Each report required by 40.97(1) shall describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

- (1) Estimates of each individual's dose; and
- (2) The levels of radiation and concentrations of radioactive material involved; and
- (3) The cause of the elevated exposures, dose rates, or concentrations; and
- (4) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license conditions. Each report filed pursuant to this paragraph must include the name, social security number, and date of birth for each occupationally overexposed individual. The report must be prepared so that this information is stated in a separate and detachable part of the report.

b. Each report filed pursuant to 40.97(1) shall include for each individual exposed: the name, social security account number, and date of birth. With respect to the limit for the embryo/fetus in 40.22(136C), the identifiers should be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

40.97(3) All licensees or registrants who make reports pursuant to 641—40.97(136C) or 641—40.98(136C) to the agency regarding exposure of an identified occupationally exposed individual, or of an identified member of the public, to radiation or radioactive material shall also provide a copy of the report to the individual or member of the public. Transmittal shall be at the same time as the transmittal to the agency.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.98(136C) Reports of planned special exposures. The licensee or registrant shall submit a written report to the agency within 30 days following any planned special exposure conducted in accordance with 40.20(136C) informing the agency that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by 40.85(136C).

641—40.99(136C) Reports of transactions involving nationally tracked sources. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in subrules 40.99(1) to 40.99(5) for each type of transaction.

40.99(1) Each licensee that manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The manufacturer, model, and serial number of the source;
- d.* The radioactive material in the source;
- e.* The initial source strength in becquerels (curies) at the time of manufacture; and
- f.* The manufacture date of the source.

40.99(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The name and license number of the recipient facility and the shipping address;
- d.* The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- e.* The radioactive material in the source;
- f.* The initial or current source strength in becquerels (curies);
- g.* The date for which the source strength is reported;
- h.* The shipping date;
- i.* The estimated arrival date; and
- j.* For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

40.99(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The name, address, and license number of the person that provided the source;
- d.* The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- e.* The radioactive material in the source;
- f.* The initial or current source strength in becquerels (curies);
- g.* The date for which the source strength is reported;
- h.* The date of receipt; and
- i.* For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

40.99(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;
- d.* The radioactive material in the source;
- e.* The initial or current source strength in becquerels (curies);
- f.* The date for which the source strength is reported; and
- g.* The disassemble date of the source.

40.99(5) Each licensee that disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The waste manifest number;
- d.* The container identification with the nationally tracked source;
- e.* The date of disposal; and
- f.* The method of disposal.

40.99(6) Reports discussed in subrules 40.99(1) to 40.99(5) must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

- a.* The on-line National Source Tracking System;
- b.* Electronically using a computer-readable format;
- c.* By facsimile;
- d.* By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or
- e.* By telephone with follow-up by facsimile or mail.

40.99(7) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subrules 40.99(1) to 40.99(5). By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

40.99(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 31, 2009. The information may be submitted by using any of the methods identified in subrule 40.99(6). The initial inventory report must include the following information:

- a.* The name, address, and license number of the reporting licensee;
- b.* The name of the individual preparing the report;
- c.* The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
- d.* The radioactive material in the sealed source;
- e.* The initial or current source strength in becquerels (curies); and
- f.* The date for which the source strength is reported.

641—40.100(136C) Reports of individual monitoring.

40.100(1) This section applies to each person licensed or registered by the agency to:

- a.* Possess or use sources of radiation for purposes of industrial radiography pursuant to 641—39.4(136C) and 641—Chapter 45; or
- b.* Receive radioactive waste from other persons for disposal pursuant to 10 CFR Part 61 of federal regulations or appropriate other Agreement State regulations; or
- c.* Possess or use at any time, for processing or manufacturing for distribution pursuant to 641—39.4(136C) or 641—41.2(136C), radioactive material in quantities exceeding any one of the following quantities:

Radionuclide	Activity ^a	
	Ci	GBq
Cesium-137	1	37
Cobalt-60	1	37
Gold-198	100	3,700
Iodine-131	1	37
Iridium-192	10	370
Krypton-85	1,000	37,000
Promethium-147	10	370
Technetium-99m	1,000	37,000

^a The agency may require as a license condition, or by rule, regulation, or order pursuant to 40.105(136C), reports from licensees or registrants who are licensed or registered to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

40.100(2) Each licensee or registrant in a category listed in 40.100(1) shall submit an annual report of the results of individual monitoring carried out by the licensee or registrant for each individual for whom monitoring was required by 40.36(136C) during that year. The licensee or registrant may include additional data for individuals for whom monitoring was provided but not required.

40.100(3) The licensee or registrant shall file the report required by 40.100(2), covering the preceding year, on or before April 30 of each year. The licensee or registrant shall submit the report to the agency.

641—40.101(136C) Notifications and reports to individuals.

40.101(1) Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in 641—40.112(136C).

40.101(2) When a licensee or registrant is required pursuant to 40.97(136C), 40.98(136C), or 40.100(136C) to report to the agency any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or registrant shall also provide a copy of the report submitted to this agency to the individual. Such notice shall be transmitted at a time not later than the transmittal to the agency, and shall comply with the provisions of 40.112(1).

641—40.102(136C) Reports of leaking or contaminated sealed sources. The licensee shall file a report within five days with the agency if the test for leakage or contamination required pursuant to 40.32(136C) indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results and the corrective action taken.

641—40.103 and 40.104 Reserved.

ADDITIONAL REQUIREMENTS

641—40.105(136C) Vacating premises. Each specific licensee shall, no less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with radioactive material as a result of their activities, notify the agency in writing of intent to vacate. When deemed necessary by the agency, the licensee shall decontaminate the premises in such a manner as the agency may specify.

641—40.106 to 40.109 Reserved.

NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

641—40.110(136C) Posting of notices to workers.

40.110(1) Each licensee or registrant, except those registrants with diagnostic X-ray systems, shall post current copies of the following documents:

- a.* This subrule and 641—Chapter 40;
- b.* The license, certificate of registration, conditions or documents incorporated into the license by reference and amendments thereto;
- c.* The operating procedures applicable to activities under the license or registration; and
- d.* Any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to 641—Chapter 38, and any response from the licensee or registrant.

40.110(2) If posting of a document specified in 40.110(1) “*a*,” 40.110(1) “*b*” and 40.110(1) “*c*” is not practical, the licensee or registrant may post a notice which describes the document and states where it may be examined.

40.110(3) Agency Form “Notice to Employees” shall be posted by each licensee or registrant.

40.110(4) Agency documents posted pursuant to 40.110(1) “*d*” shall be posted within two working days after receipt of the documents from the agency; the licensee’s or registrant’s response, if any, shall be posted within two working days after dispatch from the licensee or registrant. Such documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

40.110(5) Documents, notices, or forms posted pursuant to 40.110(1) shall appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

641—40.111(136C) Instructions to workers.

40.111(1) All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv):

- a.* Shall be kept informed of the storage, transfer, or use of sources of radiation;
- b.* Shall be instructed in the health protection problems associated with exposure to radiation or radioactive material to the individual and potential offspring, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;
- c.* Shall be instructed in, and required to observe, to the extent within the worker’s control, the applicable provisions of these rules and licenses for the protection of personnel from exposures to radiation or radioactive material occurring in such areas;
- d.* Shall be instructed of their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to, or cause a violation of the Act, these rules, and licenses or unnecessary exposure to radiation or radioactive material;
- e.* Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
- f.* Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to 641—40.112(136C).
- g.* The instruction in “*b*” through “*f*” above shall be conducted at least annually.
- h.* Shall be commensurate with potential radiological health protection problems present in the workplace.

40.111(2) In determining those individuals subject to the requirements of 40.111(1), consideration must be given to assigning activities during normal and abnormal situations involving exposure to sources of radiation which can reasonably be expected to occur during the life of the facility. The extent of these instructions must be commensurate with potential radiological health protection problems present in the workplace.

641—40.112(136C) Notifications and reports to individuals.

40.112(1) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in subrule 40.112(2). The information reported shall include data and results obtained pursuant to these rules, orders, or license conditions, as shown in records maintained by the licensee or registrant pursuant to 40.86(136C). Each notification and report shall:

- a. Be in writing;
- b. Include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's identification number, preferably social security number;
- c. Include the individual's exposure information; and
- d. Contain the following statement:

“This report is furnished to you under the provisions of 40.112(136C) of Iowa's Radiation Machine and Radioactive Materials rules. You should preserve this report for further reference.”

40.112(2) Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of 641—40.86(136C). The licensee or registrant shall provide to each individual monitored under 641—40.37(136C) an annual report of the dose received in that monitoring year if:

- a. The individual's occupational dose exceeds 100 mrem (1 mSv) TEDE or 100 mrem (1 mSv) to any individual organ or tissue, or
- b. The individual requests the individual's annual dose report.

40.112(3) Each licensee or registrant shall furnish a report of the worker's exposure to sources of radiation at the request of a worker formerly engaged in activities controlled by the licensee or registrant. The report shall include the dose record for each year the worker was required to be monitored pursuant to 40.37(136C). Such report shall be furnished within 30 days from the date of the request, or within 30 days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and shall include the dates and locations of work under the license or registration in which the worker participated during this period.

40.112(4) When a licensee or registrant is required pursuant to 641—40.96(136C), 641—40.97(136C), or 641—40.98(136C) to report to the agency any exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide the individual a report on the individual's exposure data included in the report to the agency. Such reports shall be transmitted at a time not later than the transmittal to the agency.

40.112(5) At the request of a worker who is terminating employment with the licensee or registrant in work involving exposure to radiation or radioactive material, during the current year, each licensee or registrant shall provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate.

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

641—40.113(136C) Presence of representatives of licensees or registrants and workers during inspection.

40.113(1) Each licensee or registrant shall afford to the Agency at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records pursuant to these rules.

40.113(2) During an inspection, Agency inspectors may consult privately with workers as specified in 40.114(136C). The licensee or registrant may accompany Agency inspectors during other phases of an inspection.

40.113(3) If, at the time of inspection, an individual has been authorized by the workers to represent them during Agency inspections, the licensee or registrant shall notify the inspectors of such

authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

40.113(4) Each worker's representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in 40.111(136C).

40.113(5) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one worker's representative at a time may accompany the inspectors.

40.113(6) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany Agency inspectors during the inspection of physical working conditions.

40.113(7) Notwithstanding the other provisions of 40.113(136C), Agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

641—40.114(136C) Consultation with workers during inspections.

40.114(1) Agency inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of these rules and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

40.114(2) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or license condition, or any unnecessary exposure of an individual to sources of radiation under the licensee's or registrant's control. Any such notice in writing shall comply with the requirements of 40.115(1).

40.114(3) The provisions of 40.114(2) shall not be interpreted as authorization to disregard instructions pursuant to 40.111(136C).

641—40.115(136C) Requests by workers for inspections.

40.115(1) Any worker or representative of workers believing that a violation of the Act, these rules, or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the Bureau of Radiological Health, no later than at the time of inspection except that, upon the request of the worker giving such notice, such worker's name and the name of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the Agency, except for good cause shown.

40.115(2) If, upon receipt of such notice, the Bureau of Radiological Health determines that the complaint meets the requirements set forth in 40.116(1), and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable to determine if such alleged violation exists or has occurred. Inspections pursuant to 40.116(136C) need not be limited to matters referred to in the complaint.

40.115(3) No licensee, registrant, or contractor or subcontractor of a licensee or registrant shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under these rules or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of such worker or others of any option afforded by this chapter.

641—40.116(136C) Inspections not warranted—informal review.

40.116(1) a. If the Bureau of Radiological Health determines, with respect to a complaint under this rule, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Bureau of Radiological Health shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Attorney General's Office. Such Agency will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Attorney General's Office. Such Agency will provide the complainant with a copy of such statement by certified mail.

b. Upon the request of the complainant, the Attorney General's Office may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written and oral views presented, the Attorney General's Office shall affirm, modify, or reverse the determination of the Radiation Control Program and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefor.

40.116(2) If the Bureau of Radiological Health determines that an inspection is not warranted because the requirements of 40.116(1) have not been met, the complainant shall be notified in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of 40.116(1).

641—40.117(136C) Employee protection.

40.117(1) Discrimination by a licensee or registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in 641—Chapters 38 to 45 and in general are related to the administration or enforcement of requirements imposed under 641—Chapters 38 to 45.

a. The protected activities include but are not limited to:

(1) Providing the agency or the individual's employer information about alleged violations of either of the statutes named in this rule or possible violations of requirements imposed under either of those statutes;

(2) Refusing to engage in any practice made unlawful under either of the statutes named in this rule or under these requirements if the employee has identified the alleged illegality to the employer;

(3) Requesting that the agency institute action against the individual's employer for the administration or enforcement of these requirements;

(4) Testifying in any agency proceeding, or before Congress, or at any federal or state proceeding regarding any provision (or proposed provision) of federal statutes or these rules;

(5) Assisting or participating in, or about to assist or participate in, these activities.

b. These activities are protected even if no formal proceeding is actually initiated as a result of the employee's assistance or participation.

c. This rule has no application to any employee alleging discrimination prohibited by this rule who, acting without direction from the individual's employer (or the employer's agent), deliberately causes a violation of any requirement of 641—Chapters 38 to 45.

40.117(2) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in 40.117(1)“a” may seek a remedy for the discharge or discrimination through an administrative proceeding in the U.S. Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may file for the administrative proceeding by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

40.117(3) A violation of 40.117(1)“a”(1) or 40.117(1)“a”(4) by a licensee or registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee or applicant may be grounds for:

- a. Denial, revocation, or suspension of the license or registration.
- b. Imposition of a civil penalty on the licensee, registrant, or applicant.
- c. Other enforcement action.

40.117(4) Actions taken by an employer or others which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee’s engagement in protected activities does not automatically render the employee immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

40.117(5) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to 641—Chapters 38 to 45, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in 40.117(1)“a” including, but not limited to, providing information to the agency or to the individual’s employer on potential violations or other matters within the agency’s regulatory responsibilities.

CHAPTER 40

APPENDIX A

PROTECTION FACTORS FOR RESPIRATORS^a

	Operating Mode	Assigned Protection Factor
I. Air-Purifying Respirators (particulate 1A ^b only) 1A ^c :		
Filtering facepiece disposable ^d	Negative Pressure	(^d)
Facepiece, half ^e	Negative Pressure	10
Facepiece, full	Negative Pressure	100
Facepiece, half	Powered air-purifying respirators	50
Facepiece, full	Powered air-purifying respirators	1000
Helmet/hood	Powered air-purifying respirators	1000
Facepiece, loose-fitting	Powered air-purifying respirators	25
II. Atmosphere-Supplying Respirators (particulate, gases and vapors 1A ^f):		
1. Air-line respirator:		
Facepiece, half	Demand	10
Facepiece, half	Continuous Flow	50
Facepiece, half	Pressure Demand	50
Facepiece, full	Demand	100
Facepiece, full	Continuous Flow	1000
Facepiece, full	Pressure Demand	1000
Helmet/hood	Continuous Flow	1000
Facepiece, loose-fitting	Continuous Flow	25
Suit	Continuous Flow	(^g)
2. Self-contained breathing apparatus (SCBA):		
Facepiece, full	Demand	^h 100
Facepiece, full	Pressure Demand	ⁱ 10,000
Facepiece, full	Demand, Recirculating	^h 100
Facepiece, full	Positive Pressure Recirculating	ⁱ 10,000
III. Combination Respirators:		
Any combination of air-purifying and atmosphere-supplying respirators	(1) Assigned protection factor for type and mode of operation as listed above	

^aThese assigned protection factors apply only in a respiratory protection program that meets the requirement of 641—Chapter 40. They are applicable only to airborne radiological hazards and may not be appropriate to circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with Department of Labor regulations.

Radioactive contaminants for which the concentration values in Table I, Column 3, of Appendix B to 641—Chapter 40 are based on internal dose due to inhalation may, in addition, present external exposure

hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

^bAir-purifying respirators with $APF < 100$ must be equipped with particulate filters that are at least 95 percent efficient. Air-purifying respirators with $APF = 100$ must be equipped with particulate filters that are at least 99 percent efficient. Air-purifying respirators with $APF > 100$ must be equipped with particulate filters that are at least 99.97 percent efficient.

^cThe licensee may apply to the agency for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors (e.g., radioiodine).

^dLicensees may permit individuals to use this type of respirator who have not been medically screened or fit tested on the device provided that no credit be taken for the use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in 641—40.50(136C) apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

^eUnder-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of 641—Chapter 40 are met.

^fThe assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard, and protective actions for these contaminants should be based on external (submersion) dose considerations.

^gNo NIOSH approval schedule is currently available for atmosphere-supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met.

^hThe licensee should implement institutional controls to ensure that these devices are not used in areas immediately dangerous to life or health.

ⁱThis type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

CHAPTER 40

APPENDIX B

ANNUAL LIMITS ON INTAKE (ALI) AND DERIVED AIR CONCENTRATIONS
(DAC) OF RADIONUCLIDES FOR OCCUPATIONAL EXPOSURE; EFFLUENT
CONCENTRATIONS; CONCENTRATIONS FOR RELEASE TO SANITARY SEWERAGE

Introduction

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μm , micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

NOTE: The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600, and 6E+0 represents 6×10^0 or 6.

TABLE I "OCCUPATIONAL VALUES"

Note that the columns in Table I of this appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC," are applicable to occupational exposure to radioactive material.

The ALIs in this appendix are the annual intakes of given radionuclide by "Reference Person" which would result in either (1) a committed effective dose equivalent of 5 rem (0.05 Sv), stochastic ALI, or (2) a committed dose equivalent of 50 rem (0.5 Sv) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep dose equivalent to the whole body of 5 rem (0.05 Sv). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, w_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of w_T are listed under the definition of weighting factor in 40.2. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $w_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract—stomach, small intestine, upper large intestine, and lower large intestine—are to be treated as four separate organs.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 (ml), relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 5 rem (0.05 Sv) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall	=	lower large intestine wall;
St. wall	=	stomach wall;
Blad wall	=	bladder wall; and
Bone surf	=	bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 50 rem (0.5 Sv) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, Σ (intake (in μCi) of each radionuclide/ ALI_{ns}) ≤ 1.0 . If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent, but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$DAC = ALI(\text{in } \mu\text{Ci}) / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [ALI / 2.4 \times 10^9] \mu\text{Ci/ml}$, where $2 \times 10^4 \text{ ml}$ is the volume of air breathed per minute at work by Reference Person under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides should be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See 641—40.16(136C). When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as, Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

TABLE II "EFFLUENT CONCENTRATIONS"

The columns in Table II of this appendix captioned "Effluents," "Air" and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of 641—40.27(136C). The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.05 rem (0.5 mSv).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels

established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason, the DAC and airborne effluent limits are not always proportional as they were in Appendix A of this chapter of the eighth edition of Volume I of the Suggested State Regulations for Control of Radiation.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 (ml), relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 5 rem (0.05 Sv) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: the factors of 50 and 2 described above and a factor of 7.3×10^5 (ml) which is the annual water intake of Reference Person.

Note 2 of this appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

TABLE III "RELEASES TO SEWERS"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in 40.72. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by Reference Person, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Person during a year, would result in a committed effective dose equivalent of 0.5 rem.

LIST OF ELEMENTS

Atomic			Atomic		
Name	Symbol	Number	Name	Symbol	Number
Actinium	Ac	89	Mercury	Hg	80
Aluminum	Al	13	Molybdenum	Mo	42
Americium	Am	95	Neodymium	Nd	60
Antimony	Sb	51	Neptunium	Np	93
Argon	Ar	18	Nickel	Ni	28
Arsenic	As	33	Niobium	Nb	41
Astatine	At	85	Nitrogen	N	7
Barium	Ba	56	Osmium	Os	76
Berkelium	Bk	97	Oxygen	O	8
Beryllium	Be	4	Palladium	Pd	46
Bismuth	Bi	83	Phosphorus	P	15

Bromine	Br	35	Platinum	Pt	78
Cadmium	Cd	48	Plutonium	Pu	94
Calcium	Ca	20	Polonium	Po	84
Californium	Cf	98	Potassium	K	19
Carbon	C	6	Praseodymium	Pr	59
Cerium	Ce	58	Promethium	Pm	61
Cesium	Cs	55	Protactinium	Pa	91
Chlorine	Cl	17	Radium	Ra	88
Chromium	Cr	24	Radon	Rn	86
Cobalt	Co	27	Rhenium	Re	75
Copper	Cu	29	Rhodium	Rh	45
Curium	Cm	96	Rubidium	Rb	37
Dysprosium	Dy	66	Ruthenium	Ru	44
Einsteinium	Es	99	Samarium	Sm	62
Erbium	Er	68	Scandium	Sc	21
Europium	Eu	63	Selenium	Se	34
Fermium	Fm	100	Silicon	Si	14
Fluorine	F	9	Silver	Ag	47
Francium	Fr	87	Sodium	Na	11
Gadolinium	Gd	64	Strontium	Sr	38
Gallium	Ga	31	Sulfur	S	16
Germanium	Ge	32	Tantalum	Ta	73
Gold	Au	79	Technetium	Tc	43
Hafnium	Hf	72	Tellurium	Te	52
Holmium	Ho	67	Terbium	Tb	65
Hydrogen	H	1	Thallium	Tl	81
Indium	In	49	Thorium	Th	90
Iodine	I	53	Thulium	Tm	69
Iridium	Ir	77	Tin	Sn	50
Iron	Fe	26	Titanium	Ti	22
Krypton	Kr	36	Tungsten	W	74
Lanthanum	La	57	Uranium	U	92
Lead	Pb	82	Vanadium	V	23
Lutetium	Lu	71	Xenon	Xe	54
Magnesium	Mg	12	Ytterbium	Yb	70
Manganese	Mn	25	Yttrium	Y	39
Mendelevium	Md	101	Zinc	Zn	30
			Zirconium	Zr	40

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
		ALI (μCi)	ALI (μCi)	DAC ($\mu\text{Ci/ml}$)				
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T ₂) Submersion ¹ : Use above values as HT and T ₂ oxidize in air and in the body to HTO.						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ⁷ Be	1E+3 LLI wall	2E+2	6E-8	2E-10	-	-
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ⁷ Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 ²	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	Nitrogen-13 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
8	Oxygen-15 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
9	Fluorine-18 ²	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
14 Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
	W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
	Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14 Silicon-32	D, see ³¹ Si	2E+3	2E+2	1E-7	3E-10	-	-
	LLI wall	(3E+3)	-	-	-	4E-5	4E-4
	W, see ³¹ Si	-	1E+2	5E-8	2E-10	-	-
	Y, see ³¹ Si	-	5E+0	2E-9	7E-12	-	-
15 Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
	W, phosphates of Zn ²⁺ , S ³⁺ , Mg ²⁺ , Fe ³⁺ , Bi ³⁺ , and lanthanides	-	4E+2	2E-7	5E-10	-	-
15 Phosphorus-33	D, see ³² P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
	W, see ³² P	-	3E+3	1E-6	4E-9	-	-
16 Sulfur-35	Vapor	-	1E+4	6E-6	2E-8	-	-
	D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
	LLI wall	(8E+3)	-	-	-	1E-4	1E-3
	W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	6E+3	2E+3	9E-7	3E-9	-	-
17 Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
	W, chlorides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
		ALI (μCi)	ALI (μCi)	DAC (μCi/ml)				
17	Chlorine-38 ²	D, see ³⁶ Cl	2E+4	4E+4	2E-5	6E-8	-	-
		St wall	(3E+4)	-	-	-	3E-4	3E-3
		W, see ³⁶ Cl	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39 ²	D, see ³⁶ Cl	2E+4	5E+4	2E-5	7E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
		W, see ³⁶ Cl	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion ¹	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion ¹	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion ¹	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 ²	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45 ²	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
		Bone surf	(4E+3)	(4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 ²	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
22 Titanium-45	D, see ⁴⁴ Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
	W, see ⁴⁴ Ti	-	4E+4	1E-5	5E-8	-	-
	Y, see ⁴⁴ Ti	-	3E+4	1E-5	4E-8	-	-
23 Vanadium-47 ²	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
	St wall	(3E+4)	-	-	-	4E-4	4E-3
23 Vanadium-48	W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
	D, see ⁴⁷ V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
23 Vanadium-49	W, see ⁴⁷ V	-	6E+2	3E-7	9E-10	-	-
	D, see ⁴⁷ V	7E+4	3E+4	1E-5	-	-	-
24 Chromium-48	LLI wall	(9E+4)	(3E+4)	-	5E-8	1E-3	1E-2
	Bone surf	-	2E+4	8E-6	2E-8	-	-
	W, see ⁴⁷ V	-	2E+4	8E-6	2E-8	-	-
24 Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
	W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
	Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24 Chromium-49 ²	D, see ⁴⁸ Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
	W, see ⁴⁸ Cr	-	1E+5	4E-5	1E-7	-	-
	Y, see ⁴⁸ Cr	-	9E+4	4E-5	1E-7	-	-
24 Chromium-51	D, see ⁴⁸ Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
	W, see ⁴⁸ Cr	-	2E+4	1E-5	3E-8	-	-
	Y, see ⁴⁸ Cr	-	2E+4	8E-6	3E-8	-	-
25 Manganese-51 ²	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
	W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-
25 Manganese-52m ²	D, see ⁵¹ Mn	3E+4	9E+4	4E-5	1E-7	-	-
	St wall	(4E+4)	-	-	-	5E-4	5E-3
25 Manganese-52	W, see ⁵¹ Mn	-	1E+5	4E-5	1E-7	-	-
	D, see ⁵¹ Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
25 Manganese-52	W, see ⁵¹ Mn	-	9E+2	4E-7	1E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
			ALI (μCi)	ALI (μCi)				DAC ($\mu\text{Ci/ml}$)
25	Manganese-53	D, see ^{51}Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
				Bone surf				
			-	(2E+4)	-	3E-8	-	-
		W, see ^{51}Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see ^{51}Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ^{51}Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see ^{51}Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{51}Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see ^{52}Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ^{52}Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see ^{52}Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ^{52}Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see ^{52}Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ^{52}Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see ^{55}Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ^{55}Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see ^{55}Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ^{55}Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see ^{55}Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ^{55}Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see ^{55}Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ^{55}Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m ²	W, see ^{55}Co	1E+6	4E+6	2E-3	6E-6	-	-
		St wall	(1E+6)	-	-	-	2E-2	2E-1
		Y, see ^{55}Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see ^{55}Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see ^{55}Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61 ²	W, see ^{55}Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{55}Co	2E+4	6E+4	2E-5	8E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
27	Cobalt-62m ²	W, see ⁵⁵ Co	4E+4	2E+5	7E-5	2E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
		Y, see ⁵⁵ Co	-	2E+5	6E-5	2E-7	-	-
28	Nickel-56	D, all compounds except those given for W	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		W, oxides, hydroxides, and carbides	-	1E+3	5E-7	2E-9	-	-
		Vapor	-	1E+3	5E-7	2E-9	-	-
28	Nickel-57	D, see ⁵⁶ Ni	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ⁵⁶ Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	6E+3	3E-6	9E-9	-	-
28	Nickel-59	D, see ⁵⁶ Ni	2E+4	4E+3	2E-6	5E-9	3E-4	3E-3
		W, see ⁵⁶ Ni	-	7E+3	3E-6	1E-8	-	-
		Vapor	-	2E+3	8E-7	3E-9	-	-
28	Nickel-63	D, see ⁵⁶ Ni	9E+3	2E+3	7E-7	2E-9	1E-4	1E-3
		W, see ⁵⁶ Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	8E+2	3E-7	1E-9	-	-
28	Nickel-65	D, see ⁵⁶ Ni	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ⁵⁶ Ni	-	3E+4	1E-5	4E-8	-	-
		Vapor	-	2E+4	7E-6	2E-8	-	-
28	Nickel-66	D, see ⁵⁶ Ni	4E+2	2E+3	7E-7	2E-9	-	-
		LLI wall	(5E+2)	-	-	-	6E-6	6E-5
		W, see ⁵⁶ Ni	-	6E+2	3E-7	9E-10	-	-
		Vapor	-	3E+3	1E-6	4E-9	-	-
29	Copper-60 ²	D, all compounds except those given for W and Y	3E+4	9E+4	4E-5	1E-7	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	4E-5	1E-7	-	-
29	Copper-61	D, see ⁶⁰ Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ⁶⁰ Cu	-	4E+4	2E-5	6E-8	-	-
		Y, see ⁶⁰ Cu	-	4E+4	1E-5	5E-8	-	-
29	Copper-64	D, see ⁶⁰ Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ⁶⁰ Cu	-	2E+4	1E-5	3E-8	-	-
		Y, see ⁶⁰ Cu	-	2E+4	9E-6	3E-8	-	-
29	Copper-67	D, see ⁶⁰ Cu	5E+3	8E+3	3E-6	1E-8	6E-5	6E-4
		W, see ⁶⁰ Cu	-	5E+3	2E-6	7E-9	-	-
		Y, see ⁶⁰ Cu	-	5E+3	2E-6	6E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
			ALI (μCi)	ALI (μCi)				DAC (μCi/ml)
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 ²	Y, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
			St wall					
			(3E+4)	-	-	-	3E-4	3E-3
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 ²	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65 ²	D, all compounds except those given for W	5E+4	2E+5	7E-5	2E-7	-	-
			St wall					
			(6E+4)	-	-	-	9E-4	9E-3
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ⁶⁵ Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ⁶⁵ Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 ²	D, see ⁶⁵ Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ⁶⁵ Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 ²	D, see ⁶⁵ Ga	5E+4	2E+5	7E-5	2E-7	-	-
			St wall					
			(7E+4)	-	-	-	1E-3	1E-2
		W, see ⁶⁵ Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see ⁶⁵ Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁶⁵ Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 ²	D, see ⁶⁶ Ge	3E+4	9E+4	4E-5	1E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		W, see ⁶⁶ Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ⁶⁶ Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ⁶⁶ Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ⁶⁶ Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ⁶⁶ Ge	-	8E+3	3E-6	1E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
32 Germanium-71	D, see ⁶⁶ Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
	W, see ⁶⁶ Ge	-	4E+4	2E-5	6E-8	-	-
32 Germanium-75 ²	D, see ⁶⁶ Ge	4E+4	8E+4	3E-5	1E-7	-	-
	St wall	(7E+4)	-	-	-	9E-4	9E-3
32 Germanium-77	W, see ⁶⁶ Ge	-	8E+4	4E-5	1E-7	-	-
	D, see ⁶⁶ Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
32 Germanium-78 ²	W, see ⁶⁶ Ge	-	6E+3	2E-6	8E-9	-	-
	D, see ⁶⁶ Ge	2E+4	2E+4	9E-6	3E-8	-	-
33 Arsenic-69 ²	St wall	(2E+4)	-	-	-	3E-4	3E-3
	W, see ⁶⁶ Ge	-	2E+4	9E-6	3E-8	-	-
33 Arsenic-70 ²	W, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
	St wall	(4E+4)	-	-	-	6E-4	6E-3
33 Arsenic-70 ²	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33 Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33 Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33 Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33 Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33 Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33 Arsenic-77	W, all compounds	4E+3	5E+3	2E-6	7E-9	-	-
	LLI wall	(5E+3)	-	-	-	6E-5	6E-4
33 Arsenic-78 ²	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34 Selenium-70 ²	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
	W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34 Selenium-73m ²	D, see ⁷⁰ Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
	W, see ⁷⁰ Se	3E+4	1E+5	6E-5	2E-7	-	-
34 Selenium-73	D, see ⁷⁰ Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
	W, see ⁷⁰ Se	-	2E+4	7E-6	2E-8	-	-
34 Selenium-75	D, see ⁷⁰ Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
	W, see ⁷⁰ Se	-	6E+2	3E-7	8E-10	-	-
34 Selenium-79	D, see ⁷⁰ Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
	W, see ⁷⁰ Se	-	6E+2	2E-7	8E-10	-	-
34 Selenium-81m ²	D, see ⁷⁰ Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
	W, see ⁷⁰ Se	2E+4	7E+4	3E-5	1E-7	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
34	Selenium-81 ²	D, see ⁷⁰ Se	6E+4	2E+5	9E-5	3E-7	-	-
		St wall	(8E+4)	-	-	-	1E-3	1E-2
		W, see ⁷⁰ Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 ²	D, see ⁷⁰ Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see ⁷⁰ Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m ²	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4	4E+4	2E-5	5E-8	-	-
		St wall	(2E+4)	-	-	-	3E-4	3E-3
		W, bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74 ²	D, see ^{74m} Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75 ²	D, see ^{74m} Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m} Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m} Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m} Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m} Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m} Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m} Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 ²	D, see ^{74m} Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
		W, see ^{74m} Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m} Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m} Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m} Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall	(7E+4)	-	-	-	9E-4	9E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
35 Bromine-84 ²	D, see ^{74m} Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall (3E+4)	-	-	-	4E-4	4E-3
	W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
36 Krypton-74 ²	Submersion ¹	-	-	3E-6	1E-8	-	-
36 Krypton-76	Submersion ¹	-	-	9E-6	4E-8	-	-
36 Krypton-77 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
36 Krypton-79	Submersion ¹	-	-	2E-5	7E-8	-	-
36 Krypton-81	Submersion ¹	-	-	7E-4	3E-6	-	-
36 Krypton-83m ²	Submersion ¹	-	-	1E-2	5E-5	-	-
36 Krypton-85m	Submersion ¹	-	-	2E-5	1E-7	-	-
36 Krypton-85	Submersion ¹	-	-	1E-4	7E-7	-	-
36 Krypton-87 ²	Submersion ¹	-	-	5E-6	2E-8	-	-
36 Krypton-88	Submersion ¹	-	-	2E-6	9E-9	-	-
37 Rubidium-79 ²	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
		St wall (6E+4)	-	-	-	8E-4	8E-3
37 Rubidium-81m ²	D, all compounds	2E+5	3E+5	1E-4	5E-7	-	-
		St wall (3E+5)	-	-	-	4E-3	4E-2
37 Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37 Rubidium-82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37 Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37 Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37 Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37 Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37 Rubidium-88 ²	D, all compounds	2E+4	6E+4	3E-5	9E-8	-	-
		St wall (3E+4)	-	-	-	4E-4	4E-3
37 Rubidium-89 ²	D, all compounds	4E+4	1E+5	6E-5	2E-7	-	-
		St wall (6E+4)	-	-	-	9E-4	9E-3
38 Strontium-80 ²	D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		-	1E+4	5E-6	2E-8	-	-
38 Strontium-81 ²	D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		2E+4	8E+4	3E-5	1E-7	-	-
38 Strontium-82	D, see ⁸⁰ Sr LLI wall Y, see ⁸⁰ Sr	3E+2	4E+2	2E-7	6E-10	-	-
		(2E+2)	-	-	-	3E-6	3E-5
		2E+2	9E+1	4E-8	1E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
38	Strontium-83	D, see ^{80}Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ^{80}Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m ²	D, see ^{80}Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see ^{80}Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see ^{80}Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see ^{80}Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see ^{80}Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{80}Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see ^{80}Sr	6E+2	8E+2	4E-7	1E-9	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{80}Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see ^{80}Sr	3E+1	2E+1	8E-9	-	-	-
		Bone surf	(4E+1)	(2E+1)	-	3E-11	5E-7	5E-6
		Y, see ^{80}Sr	-	4E+0	2E-9	6E-12	-	-
38	Strontium-91	D, see ^{80}Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see ^{80}Sr	-	4E+3	1E-6	5E-9	-	-
38	Strontium-92	D, see ^{80}Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{80}Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m ²	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m}Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m}Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m}Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m}Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m}Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m}Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m}Y	4E+2	7E+2	3E-7	9E-10	-	-
		LLI wall	(5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{86m}Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m ²	W, see ^{86m}Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m}Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m}Y	5E+2	2E+2	7E-8	2E-10	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{86m}Y	-	1E+2	5E-8	2E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
39 Yttrium-92	W, see ^{86m} Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
	Y, see ^{86m} Y	-	8E+3	3E-6	1E-8	-	-
39 Yttrium-93	W, see ^{86m} Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
	Y, see ^{86m} Y	-	2E+3	1E-6	3E-9	-	-
39 Yttrium-94 ²	W, see ^{86m} Y	2E+4 St wall	8E+4	3E-5	1E-7	-	-
		(3E+4)	-	-	-	4E-4	4E-3
39 Yttrium-95 ²	Y, see ^{86m} Y	-	8E+4	3E-5	1E-7	-	-
	W, see ^{86m} Y	4E+4 St wall	2E+5	6E-5	2E-7	-	-
		(5E+4)	-	-	-	7E-4	7E-3
40 Zirconium-86	Y, see ^{86m} Y	-	1E+5	6E-5	2E-7	-	-
	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
	W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
	Y, carbide	-	2E+3	1E-6	3E-9	-	-
40 Zirconium-88	D, see ⁸⁶ Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
	W, see ⁸⁶ Zr	-	5E+2	2E-7	7E-10	-	-
	Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
40 Zirconium-89	D, see ⁸⁶ Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
	W, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
	Y, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
40 Zirconium-93	D, see ⁸⁶ Zr	1E+3 Bone surf	6E+0 Bone surf	3E-9	-	-	-
		(3E+3)	(2E+1)	-	2E-11	4E-5	4E-4
	W, see ⁸⁶ Zr	-	2E+1 Bone surf	1E-8	-	-	-
		-	(6E+1)	-	9E-11	-	-
	Y, see ⁸⁶ Zr	-	6E+1 Bone surf	2E-8	-	-	-
		-	(7E+1)	-	9E-11	-	-
40 Zirconium-95	D, see ⁸⁶ Zr	1E+3	1E+2 Bone surf	5E-8	-	2E-5	2E-4
		-	(3E+2)	-	4E-10	-	-
	W, see ⁸⁶ Zr	-	4E+2	2E-7	5E-10	-	-
	Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
40 Zirconium-97	D, see ⁸⁶ Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
	W, see ⁸⁶ Zr	-	1E+3	6E-7	2E-9	-	-
	Y, see ⁸⁶ Zr	-	1E+3	5E-7	2E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
41 Niobium-88 ²	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	1E-3	1E-2
	Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41 Niobium-89 ² (66 min)	W, see ⁸⁸ Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
	Y, see ⁸⁸ Nb	-	4E+4	2E-5	5E-8	-	-
41 Niobium-89 (122 min)	W, see ⁸⁸ Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
	Y, see ⁸⁸ Nb	-	2E+4	6E-6	2E-8	-	-
41 Niobium-90	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
	Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41 Niobium-93m	W, see ⁸⁸ Nb	9E+3	2E+3	8E-7	3E-9	-	-
		LLI wall (1E+4)	-	-	-	2E-4	2E-3
	Y, see ⁸⁸ Nb	-	2E+2	7E-8	2E-10	-	-
41 Niobium-94	W, see ⁸⁸ Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
	Y, see ⁸⁸ Nb	-	2E+1	6E-9	2E-11	-	-
41 Niobium-95m	W, see ⁸⁸ Nb	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (2E+3)	-	-	-	3E-5	3E-4
	Y, see ⁸⁸ Nb	-	2E+3	9E-7	3E-9	-	-
41 Niobium-95	W, see ⁸⁸ Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
	Y, see ⁸⁸ Nb	-	1E+3	5E-7	2E-9	-	-
41 Niobium-96	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
	Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41 Niobium-97 ²	W, see ⁸⁸ Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
	Y, see ⁸⁸ Nb	-	7E+4	3E-5	1E-7	-	-
41 Niobium-98 ²	W, see ⁸⁸ Nb	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
	Y, see ⁸⁸ Nb	-	5E+4	2E-5	7E-8	-	-
42 Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
	Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42 Molybdenum-93m	D, see ⁹⁰ Mo	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
	Y, see ⁹⁰ Mo	4E+3	1E+4	6E-6	2E-8	-	-
42 Molybdenum-93	D, see ⁹⁰ Mo	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
	Y, see ⁹⁰ Mo	2E+4	2E+2	8E-8	2E-10	-	-
42 Molybdenum-99	D, see ⁹⁰ Mo	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (1E+3)	-	-	-	2E-5	2E-4
	Y, see ⁹⁰ Mo	1E+3	1E+3	6E-7	2E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
			ALI (μCi)	ALI (μCi)				DAC (μCi/ml)
42	Molybdenum-101 ²	D, see ⁹⁰ Mo	4E+4 St wall (5E+4)	1E+5	6E-5	2E-7	-	-
		Y, see ⁹⁰ Mo	-	1E+5	6E-5	2E-7	-	7E-4
43	Technetium-93m ²	D, all compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see ^{93m} Tc	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see ^{93m} Tc	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m ²	D, see ^{93m} Tc	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{93m} Tc	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see ^{93m} Tc	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{93m} Tc	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see ^{93m} Tc	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see ^{93m} Tc	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see ^{93m} Tc	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{93m} Tc	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m ²	D, see ^{93m} Tc	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see ^{93m} Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see ^{93m} Tc	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{93m} Tc	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see ^{93m} Tc	5E+3 St wall (7E+3)	7E+3	3E-6	-	6E-5	6E-4
		W, see ^{93m} Tc	-	1E+3	5E-7	2E-9	-	-
43	Technetium-97	D, see ^{93m} Tc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93m} Tc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93m} Tc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93m} Tc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93m} Tc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93m} Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93m} Tc	4E+3 St wall (6E+3)	5E+3	2E-6	-	6E-5	6E-4
		W, see ^{93m} Tc	-	7E+2	3E-7	9E-10	-	-
43	Technetium-101 ²	D, see ^{93m} Tc	9E+4 St wall (1E+5)	3E+5	1E-4	5E-7	-	-
		W, see ^{93m} Tc	-	4E+5	2E-4	5E-7	2E-3	2E-2

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
43	Technetium-104 ²	D, see ^{93m} Tc	2E+4	7E+4	3E-5	1E-7	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
		W, see ^{93m} Tc	-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94 ²	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ⁹⁴ Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ⁹⁴ Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ⁹⁴ Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ⁹⁴ Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ⁹⁴ Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁹⁴ Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ⁹⁴ Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ⁹⁴ Ru	2E+2	9E+1	4E-8	1E-10	-	-
		LLI wall	(2E+2)	-	-	-	3E-6	3E-5
		W, see ⁹⁴ Ru	-	5E+1	2E-8	8E-11	-	-
		Y, see ⁹⁴ Ru	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see ^{99m} Rh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99m} Rh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99m} Rh	-	2E+3	8E-7	3E-9	-	-
45	Rhodium-100	D, see ^{99m} Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{99m} Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{99m} Rh	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see ^{99m} Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{99m} Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see ^{99m} Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see ^{99m} Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{99m} Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{99m} Rh	-	2E+2	6E-8	2E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
45	Rhodium-102m	D, see ^{99m} Rh	1E+3	5E+2	2E-7	7E-10	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		W, see ^{99m} Rh	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{99m} Rh	-	1E+2	5E-8	2E-10	-	-
45	Rhodium-102	D, see ^{99m} Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see ^{99m} Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{99m} Rh	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m ²	D, see ^{99m} Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see ^{99m} Rh	-	1E+6	5E-4	2E-6	-	-
		Y, see ^{99m} Rh	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see ^{99m} Rh	4E+3	1E+4	5E-6	2E-8	-	-
			LLI wall					
			(4E+3)	-	-	-	5E-5	5E-4
		W, see ^{99m} Rh	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{99m} Rh	-	6E+3	2E-6	8E-9	-	-
45	Rhodium-106m	D, see ^{99m} Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{99m} Rh	-	4E+4	2E-5	5E-8	-	-
		Y, see ^{99m} Rh	-	4E+4	1E-5	5E-8	-	-
45	Rhodium-107 ²	D, see ^{99m} Rh	7E+4	2E+5	1E-4	3E-7	-	-
			St wall					
			(9E+4)	-	-	-	1E-3	1E-2
		W, see ^{99m} Rh	-	3E+5	1E-4	4E-7	-	-
		Y, see ^{99m} Rh	-	3E+5	1E-4	3E-7	-	-
46	Palladium-100	D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
46	Palladium-101	D, see ¹⁰⁰ Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ¹⁰⁰ Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ¹⁰⁰ Pd	-	3E+4	1E-5	4E-8	-	-
46	Palladium-103	D, see ¹⁰⁰ Pd	6E+3	6E+3	3E-6	9E-9	-	-
			LLI wall					
			(7E+3)	-	-	-	1E-4	1E-3
		W, see ¹⁰⁰ Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁰⁰ Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ¹⁰⁰ Pd	3E+4	2E+4	9E-6	-	-	-
			LLI wall Kidneys					
			(4E+4)	(2E+4)	-	3E-8	5E-4	5E-3
		W, see ¹⁰⁰ Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ¹⁰⁰ Pd	-	4E+2	2E-7	6E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
			ALI (μCi)	ALI (μCi)			
46 Palladium-109	D, see ¹⁰⁰ Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
	W, see ¹⁰⁰ Pd	-	5E+3	2E-6	8E-9	-	-
	Y, see ¹⁰⁰ Pd	-	5E+3	2E-6	6E-9	-	-
47 Silver-102 ²	D, all compounds except those given for W and Y	5E+4 St wall	2E+5	8E-5	2E-7	-	-
		(6E+4)	-	-	-	9E-4	9E-3
	W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
47 Silver-103 ²	Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
		4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		-	1E+5	5E-5	2E-7	-	-
47 Silver-104m ²	D, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
		3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		-	1E+5	5E-5	2E-7	-	-
47 Silver-104 ²	D, see ¹⁰² Ag	-	1E+5	5E-5	2E-7	-	-
		2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		-	1E+5	6E-5	2E-7	-	-
47 Silver-105	D, see ¹⁰² Ag	-	1E+5	6E-5	2E-7	-	-
		3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		-	2E+3	7E-7	2E-9	-	-
47 Silver-106m	D, see ¹⁰² Ag	-	2E+3	7E-7	2E-9	-	-
		8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		-	9E+2	4E-7	1E-9	-	-
47 Silver-106 ²	D, see ¹⁰² Ag	-	9E+2	4E-7	1E-9	-	-
		6E+4 St wall	2E+5	8E-5	3E-7	-	-
		(6E+4)	-	-	-	9E-4	9E-3
47 Silver-108m	D, see ¹⁰² Ag	-	2E+5	9E-5	3E-7	-	-
		-	2E+5	8E-5	3E-7	-	-
		6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
47 Silver-110m	D, see ¹⁰² Ag	-	3E+2	1E-7	4E-10	-	-
		-	2E+1	1E-8	3E-11	-	-
		5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
47 Silver-111	D, see ¹⁰² Ag	-	2E+2	8E-8	3E-10	-	-
		-	9E+1	4E-8	1E-10	-	-
		9E+2 LLI wall	2E+3 Liver	6E-7	-	-	-
47 Silver-111	D, see ¹⁰² Ag	(1E+3)	(2E+3)	-	2E-9	2E-5	2E-4
		-	9E+2	4E-7	1E-9	-	-
		-	9E+2	4E-7	1E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
47	Silver-112	D, see ¹⁰² Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ¹⁰² Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ¹⁰² Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115 ²	D, see ¹⁰² Ag	3E+4 St wall (3E+4)	9E+4	4E-5	1E-7	-	4E-3
		W, see ¹⁰² Ag	-	9E+4	4E-5	1E-7	-	-
		Y, see ¹⁰² Ag	-	8E+4	3E-5	1E-7	-	-
48	Cadmium-104 ²	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ¹⁰⁴ Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ¹⁰⁴ Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ¹⁰⁴ Cd	-	5E+4	2E-5	7E-8	-	-
48	Cadmium-109	D, see ¹⁰⁴ Cd	3E+2	4E+1	1E-8	-	-	-
		Kidneys	(4E+2)	Kidneys (5E+1)	-	7E-11	6E-6	6E-5
		W, see ¹⁰⁴ Cd	-	1E+2 Kidneys	5E-8	-	-	-
			-	(1E+2)	-	2E-10	-	-
		Y, see ¹⁰⁴ Cd	-	1E+2	5E-8	2E-10	-	-
48	Cadmium-113m	D, see ¹⁰⁴ Cd	2E+1	2E+0	1E-9	-	-	-
		Kidneys	(4E+1)	Kidneys (4E+0)	-	5E-12	5E-7	5E-6
		W, see ¹⁰⁴ Cd	-	8E+0 Kidneys	4E-9	-	-	-
			-	(1E+1)	-	2E-11	-	-
		Y, see ¹⁰⁴ Cd	-	1E+1	5E-9	2E-11	-	-
48	Cadmium-113	D, see ¹⁰⁴ Cd	2E+1	2E+0	9E-10	-	-	-
		Kidneys	(3E+1)	Kidneys (3E+0)	-	5E-12	4E-7	4E-6
		W, see ¹⁰⁴ Cd	-	8E+0 Kidneys	3E-9	-	-	-
			-	(1E+1)	-	2E-11	-	-
		Y, see ¹⁰⁴ Cd	-	1E+1	6E-9	2E-11	-	-
48	Cadmium-115m	D, see ¹⁰⁴ Cd	3E+2	5E+1 Kidneys	2E-8	-	4E-6	4E-5
			-	(8E+1)	-	1E-10	-	-
		W, see ¹⁰⁴ Cd	-	1E+2	5E-8	2E-10	-	-
		Y, see ¹⁰⁴ Cd	-	1E+2	6E-8	2E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
48	Cadmium-115	D, see ¹⁰⁴ Cd	9E+2 LLI wall (1E+3)	1E+3 - -	6E-7 - -	2E-9 - -	- 1E-5 -	- 1E-4 -
		W, see ¹⁰⁴ Cd	-	1E+3	5E-7	2E-9	-	-
		Y, see ¹⁰⁴ Cd	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see ¹⁰⁴ Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ¹⁰⁴ Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ¹⁰⁴ Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ¹⁰⁴ Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ¹⁰⁴ Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ¹⁰⁴ Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	9E-8	-	-
49	Indium-110 ² (69.1 min)	D, see ¹⁰⁹ In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁰⁹ In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see ¹⁰⁹ In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see ¹⁰⁹ In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ¹⁰⁹ In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ¹⁰⁹ In	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 ²	D, see ¹⁰⁹ In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see ¹⁰⁹ In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m ²	D, see ¹⁰⁹ In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see ¹⁰⁹ In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ¹⁰⁹ In	3E+2 LLI wall (4E+2)	6E+1 - -	3E-8 - -	9E-11 - -	- 5E-6 -	- 5E-5 -
		W, see ¹⁰⁹ In	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see ¹⁰⁹ In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁰⁹ In	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see ¹⁰⁹ In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
		W, see ¹⁰⁹ In	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m ²	D, see ¹⁰⁹ In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹⁰⁹ In	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m ²	D, see ¹⁰⁹ In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ¹⁰⁹ In	-	4E+4	2E-5	6E-8	-	-
49	Indium-117 ²	D, see ¹⁰⁹ In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see ¹⁰⁹ In	-	2E+5	9E-5	3E-7	-	-
49	Indium-119m ²	D, see ¹⁰⁹ In	4E+4 St wall (5E+4)	1E+5 - -	5E-5 - -	2E-7 - -	- 7E-4 -	- 7E-3 -
		W, see ¹⁰⁹ In	-	1E+5	6E-5	2E-7	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)
		Oral Ingestion ALI (μCi)	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	
			ALI (μCi)	DAC ($\mu\text{Ci/ml}$)			
50 Tin-110	D, all compounds except those given for W	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
	W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	-	1E+4	5E-6	2E-8	-	-
50 Tin-111 ²	D, see ¹¹⁰ Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
	W, see ¹¹⁰ Sn	-	3E+5	1E-4	4E-7	-	-
50 Tin-113	D, see ¹¹⁰ Sn	2E+3	1E+3	5E-7	2E-9	-	-
	LLI wall	(2E+3)	-	-	-	3E-5	3E-4
	W, see ¹¹⁰ Sn	-	5E+2	2E-7	8E-10	-	-
50 Tin-117m	D, see ¹¹⁰ Sn	2E+3	1E+3	5E-7	-	-	-
	LLI wall	(2E+3)	(2E+3)	-	3E-9	3E-5	3E-4
	Bone surf	-	-	-	-	-	-
	W, see ¹¹⁰ Sn	-	1E+3	6E-7	2E-9	-	-
50 Tin-119m	D, see ¹¹⁰ Sn	3E+3	2E+3	1E-6	3E-9	-	-
	LLI wall	(4E+3)	-	-	-	6E-5	6E-4
	W, see ¹¹⁰ Sn	-	1E+3	4E-7	1E-9	-	-
50 Tin-121m	D, see ¹¹⁰ Sn	3E+3	9E+2	4E-7	1E-9	-	-
	LLI wall	(4E+3)	-	-	-	5E-5	5E-4
	W, see ¹¹⁰ Sn	-	5E+2	2E-7	8E-10	-	-
50 Tin-121	D, see ¹¹⁰ Sn	6E+3	2E+4	6E-6	2E-8	-	-
	LLI wall	(6E+3)	-	-	-	8E-5	8E-4
	W, see ¹¹⁰ Sn	-	1E+4	5E-6	2E-8	-	-
50 Tin-123m ²	D, see ¹¹⁰ Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
	W, see ¹¹⁰ Sn	-	1E+5	6E-5	2E-7	-	-
50 Tin-123	D, see ¹¹⁰ Sn	5E+2	6E+2	3E-7	9E-10	-	-
	LLI wall	(6E+2)	-	-	-	9E-6	9E-5
	W, see ¹¹⁰ Sn	-	2E+2	7E-8	2E-10	-	-
50 Tin-125	D, see ¹¹⁰ Sn	4E+2	9E+2	4E-7	1E-9	-	-
	LLI wall	(5E+2)	-	-	-	6E-6	6E-5
	W, see ¹¹⁰ Sn	-	4E+2	1E-7	5E-10	-	-
50 Tin-126	D, see ¹¹⁰ Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
	W, see ¹¹⁰ Sn	-	7E+1	3E-8	9E-11	-	-
50 Tin-127	D, see ¹¹⁰ Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
	W, see ¹¹⁰ Sn	-	2E+4	8E-6	3E-8	-	-
50 Tin-128 ²	D, see ¹¹⁰ Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
	W, see ¹¹⁰ Sn	-	4E+4	1E-5	5E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
51	Antimony-115 ²	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m ²	D, see ¹¹⁵ Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 ²	D, see ¹¹⁵ Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see ¹¹⁵ Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see ¹¹⁵ Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see ¹¹⁵ Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see ¹¹⁵ Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹¹⁵ Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120 ² (16 min)	D, see ¹¹⁵ Sb	1E+5	4E+5	2E-4	6E-7	-	-
		St wall	(2E+5)	-	-	-	2E-3	2E-2
		W, see ¹¹⁵ Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see ¹¹⁵ Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ¹¹⁵ Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see ¹¹⁵ Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall	(8E+2)	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m ²	D, see ¹¹⁵ Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see ¹¹⁵ Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see ¹¹⁵ Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see ¹¹⁵ Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see ¹¹⁵ Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m ²	D, see ¹¹⁵ Sb	5E+4	2E+5	8E-5	3E-7	-	-
		St wall	(7E+4)	-	-	-	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see ¹¹⁵ Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ¹¹⁵ Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall	(8E+2)	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	9E+2	4E-7	1E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
51	Antimony-128 ² (10.4 min)	D, see ¹¹⁵ Sb	8E+4	4E+5	2E-4	5E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ¹¹⁵ Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see ¹¹⁵ Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see ¹¹⁵ Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see ¹¹⁵ Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130 ²	D, see ¹¹⁵ Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131 ²	D, see ¹¹⁵ Sb	1E+4 Thyroid	2E+4 Thyroid	1E-5	-	-	-
			(2E+4)	(4E+4)	-	6E-8	2E-4	2E-3
		W, see ¹¹⁵ Sb	-	2E+4 Thyroid	1E-5	-	-	-
			-	(4E+4)	-	6E-8	-	-
52	Tellurium-116	D, all compounds except those given for W	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, oxides, hydroxides, and nitrates	-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see ¹¹⁶ Te	5E+2 Bone surf	2E+2 Bone surf	8E-8	-	-	-
			(7E+2)	(4E+2)	-	5E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ¹¹⁶ Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ¹¹⁶ Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see ¹¹⁶ Te	6E+2 Bone surf	2E+2 Bone surf	9E-8	-	-	-
			(1E+3)	(5E+2)	-	8E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see ¹¹⁶ Te	5E+2 Bone surf	2E+2 Bone surf	8E-8	-	-	-
			(1E+3)	(5E+2)	-	7E-10	2E-5	2E-4
		W, see ¹¹⁶ Te	-	4E+2 Bone surf	2E-7	-	-	-
			-	(1E+3)	-	2E-9	-	-
52	Tellurium-125m	D, see ¹¹⁶ Te	1E+3 Bone surf	4E+2 Bone surf	2E-7	-	-	-
			(1E+3)	(1E+3)	-	1E-9	2E-5	2E-4
		W, see ¹¹⁶ Te	-	7E+2	3E-7	1E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
52	Tellurium-127m	D, see ^{116}Te	6E+2	3E+2	1E-7	-	9E-6	9E-5
				Bone surf				
			-	(4E+2)	-	6E-10	-	-
		W, see ^{116}Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ^{116}Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{116}Te	-	2E+4	7E-6	2E-8	-	-
52	Tellurium-129m	D, see ^{116}Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see ^{116}Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129 ²	D, see ^{116}Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{116}Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see ^{116}Te	3E+2	4E+2	2E-7	-	-	-
			Thyroid	Thyroid				
			(6E+2)	(1E+3)	-	2E-9	8E-6	8E-5
		W, see ^{116}Te	-	4E+2	2E-7	-	-	-
			Thyroid	Thyroid				
			-	(9E+2)	-	1E-9	-	-
52	Tellurium-131 ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-
			Thyroid	Thyroid				
			(6E+3)	(1E+4)	-	2E-8	8E-5	8E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-
			Thyroid	Thyroid				
			-	(1E+4)	-	2E-8	-	-
52	Tellurium-132	D, see ^{116}Te	2E+2	2E+2	9E-8	-	-	-
			Thyroid	Thyroid				
			(7E+2)	(8E+2)	-	1E-9	9E-6	9E-5
		W, see ^{116}Te	-	2E+2	9E-8	-	-	-
			Thyroid	Thyroid				
			-	(6E+2)	-	9E-10	-	-
52	Tellurium-133m ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-
			Thyroid	Thyroid				
			(6E+3)	(1E+4)	-	2E-8	9E-5	9E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-
			Thyroid	Thyroid				
			-	(1E+4)	-	2E-8	-	-
52	Tellurium-133 ²	D, see ^{116}Te	1E+4	2E+4	9E-6	-	-	-
			Thyroid	Thyroid				
			(3E+4)	(6E+4)	-	8E-8	4E-4	4E-3
		W, see ^{116}Te	-	2E+4	9E-6	-	-	-
			Thyroid	Thyroid				
			-	(6E+4)	-	8E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
52	Tellurium-134 ²	D, see ¹¹⁶ Te	2E+4	2E+4	1E-5	-	-	-
			Thyroid (2E+4)	Thyroid (5E+4)	-	7E-8	3E-4	3E-3
		W, see ¹¹⁶ Te	-	2E+4 Thyroid	1E-5	-	-	-
			-	(5E+4)	-	7E-8	-	-
53	Iodine-120m ²	D, all compounds	1E+4	2E+4	9E-6	3E-8	-	-
			Thyroid (1E+4)	-	-	-	2E-4	2E-3
53	Iodine-120 ²	D, all compounds	4E+3	9E+3	4E-6	-	-	-
			Thyroid (8E+3)	Thyroid (1E+4)	-	2E-8	1E-4	1E-3
53	Iodine-121	D, all compounds	1E+4	2E+4	8E-6	-	-	-
			Thyroid (3E+4)	Thyroid (5E+4)	-	7E-8	4E-4	4E-3
53	Iodine-123	D, all compounds	3E+3	6E+3	3E-6	-	-	-
			Thyroid (1E+4)	Thyroid (2E+4)	-	2E-8	1E-4	1E-3
53	Iodine-124	D, all compounds	5E+1	8E+1	3E-8	-	-	-
			Thyroid (2E+2)	Thyroid (3E+2)	-	4E-10	2E-6	2E-5
53	Iodine-125	D, all compounds	4E+1	6E+1	3E-8	-	-	-
			Thyroid (1E+2)	Thyroid (2E+2)	-	3E-10	2E-6	2E-5
53	Iodine-126	D, all compounds	2E+1	4E+1	1E-8	-	-	-
			Thyroid (7E+1)	Thyroid (1E+2)	-	2E-10	1E-6	1E-5
53	Iodine-128 ²	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
53	Iodine-129	D, all compounds	5E+0	9E+0	4E-9	-	-	-
			Thyroid (2E+1)	Thyroid (3E+1)	-	4E-11	2E-7	2E-6
53	Iodine-130	D, all compounds	4E+2	7E+2	3E-7	-	-	-
			Thyroid (1E+3)	Thyroid (2E+3)	-	3E-9	2E-5	2E-4
53	Iodine-131	D, all compounds	3E+1	5E+1	2E-8	-	-	-
			Thyroid (9E+1)	Thyroid (2E+2)	-	2E-10	1E-6	1E-5
53	Iodine-132m ²	D, all compounds	4E+3	8E+3	4E-6	-	-	-
			Thyroid (1E+4)	Thyroid (2E+4)	-	3E-8	1E-4	1E-3

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)	
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6 - -	- 2E-8 1E-4	- 1E-3 -
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7 - -	1E-9 7E-6 -	- 7E-5 -
53	Iodine-134 ²	D, all compounds	2E+4 Thyroid (3E+4)	5E+4 - -	2E-5 - -	6E-8 - 4E-4	- 4E-3 -
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7 - -	- 6E-9 3E-5	- 3E-4 -
54	Xenon-120 ²	Submersion ¹	-	-	1E-5	4E-8	-
54	Xenon-121 ²	Submersion ¹	-	-	2E-6	1E-8	-
54	Xenon-122	Submersion ¹	-	-	7E-5	3E-7	-
54	Xenon-123	Submersion ¹	-	-	6E-6	3E-8	-
54	Xenon-125	Submersion ¹	-	-	2E-5	7E-8	-
54	Xenon-127	Submersion ¹	-	-	1E-5	6E-8	-
54	Xenon-129m	Submersion ¹	-	-	2E-4	9E-7	-
54	Xenon-131m	Submersion ¹	-	-	4E-4	2E-6	-
54	Xenon-133m	Submersion ¹	-	-	1E-4	6E-7	-
54	Xenon-133	Submersion ¹	-	-	1E-4	5E-7	-
54	Xenon-135m ²	Submersion ¹	-	-	9E-6	4E-8	-
54	Xenon-135	Submersion ¹	-	-	1E-5	7E-8	-
54	Xenon-138 ²	Submersion ¹	-	-	4E-6	2E-8	-
55	Cesium-125 ²	D, all compounds	5E+4 St wall (9E+4)	1E+5 - -	6E-5 - -	2E-7 - 1E-3	- 1E-2 -
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-3
55	Cesium-130 ²	D, all compounds	6E+4 St wall (1E+5)	2E+5 - -	8E-5 - -	3E-7 - 1E-3	- 1E-2 -
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-4
55	Cesium-134m	D, all compounds	1E+5 St wall (1E+5)	1E+5 - -	6E-5 - -	2E-7 - 2E-3	- 2E-2 -
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-6
55	Cesium-135m ²	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-5

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 ²	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
56	Barium-126 ²	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m ²	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
			St wall (5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 ²	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
56	Barium-141 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 ²	D, all compounds except those given for W	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		W, oxides and hydroxides	-	2E+5	7E-5	2E-7	-	-
57	Lanthanum-132	D, see ¹³¹ La	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see ¹³¹ La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see ¹³¹ La	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ¹³¹ La	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see ¹³¹ La	1E+4	6E+1	3E-8	-	2E-4	2E-3
			Liver -	(7E+1)	-	1E-10	-	-
		W, see ¹³¹ La	-	3E+2	1E-7	-	-	-
			Liver -	(3E+2)	-	4E-10	-	-
57	Lanthanum-138	D, see ¹³¹ La	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see ¹³¹ La	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see ¹³¹ La	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ¹³¹ La	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see ¹³¹ La	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see ¹³¹ La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142 ²	D, see ¹³¹ La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹³¹ La	-	3E+4	1E-5	5E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
		ALI (μCi)	ALI (μCi)	DAC (μCi/ml)				
57	Lanthanum-143 ²	D, see ¹³¹ La	4E+4	1E+5	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ¹³¹ La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see ¹³⁴ Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ¹³⁴ Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see ¹³⁴ Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ¹³⁴ Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see ¹³⁴ Ce	2E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ¹³⁴ Ce	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	2E+3	7E-7	2E-9	-	-
58	Cerium-144	W, see ¹³⁴ Ce	2E+2	3E+1	1E-8	4E-11	-	-
			LLI wall (3E+2)	-	-	-	3E-6	3E-5
		Y, see ¹³⁴ Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 ²	W, all compounds except those given for Y	5E+4	2E+5	1E-4	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 ²	W, see ¹³⁶ Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ¹³⁶ Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ¹³⁶ Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ¹³⁶ Pr	-	4E+4	2E-5	6E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
59	Praseodymium-139	W, see ¹³⁶ Pr Y, see ¹³⁶ Pr	4E+4 -	1E+5 1E+5	5E-5 5E-5	2E-7 2E-7	6E-4 -	6E-3 -
59	Praseodymium-142m ²	W, see ¹³⁶ Pr Y, see ¹³⁶ Pr	8E+4 -	2E+5 1E+5	7E-5 6E-5	2E-7 2E-7	1E-3 -	1E-2 -
59	Praseodymium-142	W, see ¹³⁶ Pr Y, see ¹³⁶ Pr	1E+3 -	2E+3 2E+3	9E-7 8E-7	3E-9 3E-9	1E-5 -	1E-4 -
59	Praseodymium-143	W, see ¹³⁶ Pr	9E+2	8E+2	3E-7	1E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹³⁶ Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 ²	W, see ¹³⁶ Pr	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		Y, see ¹³⁶ Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see ¹³⁶ Pr Y, see ¹³⁶ Pr	3E+3 -	9E+3 8E+3	4E-6 3E-6	1E-8 1E-8	4E-5 -	4E-4 -
59	Praseodymium-147 ²	W, see ¹³⁶ Pr	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
		Y, see ¹³⁶ Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 ²	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	2E+3 -	6E+3 5E+3	3E-6 2E-6	9E-9 7E-9	3E-5 -	3E-4 -
60	Neodymium-139m	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	5E+3 -	2E+4 1E+4	7E-6 6E-6	2E-8 2E-8	7E-5 -	7E-4 -
60	Neodymium-139 ²	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	9E+4 -	3E+5 3E+5	1E-4 1E-4	5E-7 4E-7	1E-3 -	1E-2 -
60	Neodymium-141	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	2E+5 -	7E+5 6E+5	3E-4 3E-4	1E-6 9E-7	2E-3 -	2E-2 -
60	Neodymium-147	W, see ¹³⁶ Nd	1E+3	9E+2	4E-7	1E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹³⁶ Nd	-	8E+2	4E-7	1E-9	-	-
60	Neodymium-149 ²	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	1E+4 -	3E+4 2E+4	1E-5 1E-5	4E-8 3E-8	1E-4 -	1E-3 -
60	Neodymium-151 ²	W, see ¹³⁶ Nd Y, see ¹³⁶ Nd	7E+4 -	2E+5 2E+5	8E-5 8E-5	3E-7 3E-7	9E-4 -	9E-3 -

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
61	Promethium-141 ²	W, all compounds except those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
		St wall	(6E+4)	-	-	-	8E-4	8E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
61	Promethium-143	W, see ¹⁴¹ Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
		Y, see ¹⁴¹ Pm	-	7E+2	3E-7	1E-9	-	-
61	Promethium-144	W, see ¹⁴¹ Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		Y, see ¹⁴¹ Pm	-	1E+2	5E-8	2E-10	-	-
61	Promethium-145	W, see ¹⁴¹ Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
		Bone surf	-	(2E+2)	-	3E-10	-	-
		Y, see ¹⁴¹ Pm	-	2E+2	8E-8	3E-10	-	-
61	Promethium-146	W, see ¹⁴¹ Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
		Y, see ¹⁴¹ Pm	-	4E+1	2E-8	6E-11	-	-
61	Promethium-147	W, see ¹⁴¹ Pm	4E+3	1E+2	5E-8	-	-	-
		Bone surf	(5E+3)	(2E+2)	-	3E-10	7E-5	7E-4
		Y, see ¹⁴¹ Pm	-	1E+2	6E-8	2E-10	-	-
61	Promethium-148m	W, see ¹⁴¹ Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		Y, see ¹⁴¹ Pm	-	3E+2	1E-7	5E-10	-	-
61	Promethium-148	W, see ¹⁴¹ Pm	4E+2	5E+2	2E-7	8E-10	-	-
		LLI wall	(5E+2)	-	-	-	7E-6	7E-5
		Y, see ¹⁴¹ Pm	-	5E+2	2E-7	7E-10	-	-
61	Promethium-149	W, see ¹⁴¹ Pm	1E+3	2E+3	8E-7	3E-9	-	-
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹⁴¹ Pm	-	2E+3	8E-7	2E-9	-	-
61	Promethium-150	W, see ¹⁴¹ Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ¹⁴¹ Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see ¹⁴¹ Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ¹⁴¹ Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
62	Samarium-141 ²	W, all compounds	5E+4	2E+5	8E-5	2E-7	-	-
		St wall	(6E+4)	-	-	-	8E-4	8E-3
62	Samarium-142 ²	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1	4E-2	1E-11	-	-	-
		Bone surf		Bone surf				

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
			ALI (μCi)	ALI (μCi)				DAC ($\mu\text{Ci/ml}$)
		(3E+1)	(6E-2)	-	9E-14	3E-7	3E-6	
62	Samarium-147	W, all compounds	2E+1 Bone surf	4E-2 Bone surf	2E-11	-	-	-
			(3E+1)	(7E-2)	-	1E-13	4E-7	4E-6
62	Samarium-151	W, all compounds	1E+4 LLI wall	1E+2 Bone surf	4E-8	-	-	-
			(1E+4)	(2E+2)	-	2E-10	2E-4	2E-3
62	Samarium-153	W, all compounds	2E+3 LLI wall	3E+3	1E-6	4E-9	-	-
			(2E+3)	-	-	-	3E-5	3E-4
62	Samarium-155 ²	W, all compounds	6E+4 St wall	2E+5	9E-5	3E-7	-	-
			(8E+4)	-	-	-	1E-3	1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3	9E+1	4E-8	-	5E-5	5E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 ²	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 ²	D, all compounds except those given for W	5E+4	2E+5	6E-5	2E-7	-	-
			St wall					
			(5E+4)	-	-	-	6E-4	6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ¹⁴⁵ Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ¹⁴⁵ Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ¹⁴⁵ Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁴⁵ Gd	-	4E+3	1E-6	5E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers		
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)		
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)			
64	Gadolinium-148	D, see ¹⁴⁵ Gd	1E+1 Bone surf (2E+1)	8E+3 Bone surf (2E+2)	3E-12	-	-	3E-6	
		W, see ¹⁴⁵ Gd	-	3E-2 Bone surf (6E-2)	1E-11	-	-	-	
64	Gadolinium-149	D, see ¹⁴⁵ Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4	
		W, see ¹⁴⁵ Gd	-	2E+3	1E-6	3E-9	-	-	
64	Gadolinium-151	D, see ¹⁴⁵ Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4	
		W, see ¹⁴⁵ Gd	-	1E+3	5E-7	2E-9	-	-	
64	Gadolinium-152	D, see ¹⁴⁵ Gd	2E+1 Bone surf (3E+1)	1E-2 Bone surf (2E-2)	4E-12	-	3E-14	4E-7	4E-6
		W, see ¹⁴⁵ Gd	-	4E-2 Bone surf (8E-2)	2E-11	-	-	-	
64	Gadolinium-153	D, see ¹⁴⁵ Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4	
		W, see ¹⁴⁵ Gd	-	6E+2	2E-7	8E-10	-	-	
64	Gadolinium-159	D, see ¹⁴⁵ Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4	
		W, see ¹⁴⁵ Gd	-	6E+3	2E-6	8E-9	-	-	
65	Terbium-147 ²	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3	
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4	
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4	
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4	
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4	
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4	
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4	
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3	
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3	
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4	
65	Terbium-157	W, all compounds	5E+4 LLI wall (5E+4)	3E+2 Bone surf (6E+2)	1E-7	-	-	-	
						8E-10	7E-4	7E-3	

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
		ALI (μCi)	ALI (μCi)	DAC ($\mu\text{Ci/ml}$)				
65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
65	Terbium-161	W, all compounds	2E+3	2E+3	7E-7	2E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155 ²	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 ²	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 ²	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m ²	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 ²	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m ²	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 ²	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
		LLI wall	(1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
		LLI wall	(1E+4)	Bone surf (6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
		LLI wall	(8E+2)	-	-	-	1E-5	1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
70	Ytterbium-162 ²	W, all compounds except those given for Y	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
		Y, oxides, hydroxides, and fluorides	-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ¹⁶² Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167 ²	W, see ¹⁶² Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see ¹⁶² Yb	-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see ¹⁶² Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ¹⁶² Yb	3E+3	4E+3	1E-6	5E-9	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
		Y, see ¹⁶² Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 ²	W, see ¹⁶² Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178 ²	W, see ¹⁶² Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ¹⁶⁹ Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see ¹⁶⁹ Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ¹⁶⁹ Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see ¹⁶⁹ Lu	-	1E+3	5E-7	2E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
71	Lutetium-173	W, see ¹⁶⁹ Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
				Bone surf				
		Y, see ¹⁶⁹ Lu	-	(5E+2)	-	6E-10	-	-
		Y, see ¹⁶⁹ Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ¹⁶⁹ Lu	2E+3	2E+2	1E-7	-	-	-
			LLI wall	Bone surf				
			(3E+3)	(3E+2)	-	5E-10	4E-5	4E-4
		Y, see ¹⁶⁹ Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ¹⁶⁹ Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
				Bone surf				
			-	(2E+2)	-	3E-10	-	-
		Y, see ¹⁶⁹ Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ¹⁶⁹ Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see ¹⁶⁹ Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ¹⁶⁹ Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
				Bone surf				
			-	(1E+1)	-	2E-11	-	-
		Y, see ¹⁶⁹ Lu	-	8E+0	3E-9	1E-11	-	-
71	Lutetium-177m	W, see ¹⁶⁹ Lu	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
		Y, see ¹⁶⁹ Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ¹⁶⁹ Lu	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m ²	W, see ¹⁶⁹ Lu	5E+4	2E+5	8E-5	3E-7	-	-
			St wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see ¹⁶⁹ Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 ²	W, see ¹⁶⁹ Lu	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see ¹⁶⁹ Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ¹⁶⁹ Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ¹⁶⁹ Lu	-	2E+4	6E-6	3E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ¹⁷⁰ Hf	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		W, see ¹⁷⁰ Hf	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ¹⁷⁰ Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ¹⁷⁰ Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ¹⁷⁰ Hf	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf				
			-	(1E+3)	-	1E-9	-	-
		W, see ¹⁷⁰ Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m ²	D, see ¹⁷⁰ Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ¹⁷⁰ Hf	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see ¹⁷⁰ Hf	3E+2	1E+0	5E-10	-	3E-6	3E-5
				Bone surf				
			-	(2E+0)	-	3E-12	-	-
		W, see ¹⁷⁰ Hf	-	5E+0	2E-9	-	-	-
				Bone surf				
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see ¹⁷⁰ Hf	1E+3	3E+2	1E-7	-	1E-5	1E-4
				Bone surf				
			-	(6E+2)	-	8E-10	-	-
		W, see ¹⁷⁰ Hf	-	6E+2	3E-7	8E-10	-	-
72	Hafnium-180m	D, see ¹⁷⁰ Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹⁷⁰ Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ¹⁷⁰ Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
				Bone surf				
			-	(4E+2)	-	6E-10	-	-
		W, see ¹⁷⁰ Hf	-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m ²	D, see ¹⁷⁰ Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see ¹⁷⁰ Hf	-	1E+5	6E-5	2E-7	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
72	Hafnium-182	D, see ¹⁷⁰ Hf	2E+2	8E-1	3E-10	-	-	-
			Bone surf (4E+2)	Bone surf (2E+0)	-	2E-12	5E-6	5E-5
		W, see ¹⁷⁰ Hf	-	3E+0	1E-9	-	-	-
			-	Bone surf (7E+0)	-	1E-11	-	-
72	Hafnium-183 ²	D, see ¹⁷⁰ Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see ¹⁷⁰ Hf	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-172 ²	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see ¹⁷² Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ¹⁷² Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174 ²	W, see ¹⁷² Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see ¹⁷² Ta	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see ¹⁷² Ta	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see ¹⁷² Ta	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see ¹⁷² Ta	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see ¹⁷² Ta	-	1E+4	5E-6	2E-8	-	-
73	Tantalum-177	W, see ¹⁷² Ta	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see ¹⁷² Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see ¹⁷² Ta	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see ¹⁷² Ta	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see ¹⁷² Ta	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see ¹⁷² Ta	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see ¹⁷² Ta	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ¹⁷² Ta	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see ¹⁷² Ta	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see ¹⁷² Ta	-	2E+1	1E-8	3E-11	-	-
73	Tantalum-182m ²	W, see ¹⁷² Ta	2E+5	5E+5	2E-4	8E-7	-	-
		St wall	(2E+5)	-	-	-	3E-3	3E-2
		Y, see ¹⁷² Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see ¹⁷² Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see ¹⁷² Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see ¹⁷² Ta	9E+2	1E+3	5E-7	2E-9	-	-
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹⁷² Ta	-	1E+3	4E-7	1E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
73	Tantalum-184	W, see ^{172}Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see ^{172}Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185 ²	W, see ^{172}Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186 ²	W, see ^{172}Ta	5E+4	2E+5	1E-4	3E-7	-	-
		St wall	(7E+4)	-	-	-	1E-3	1E-2
		Y, see ^{172}Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 ²	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3	7E+3	3E-6	9E-9	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2	1E+3	5E-7	2E-9	-	-
		LLI wall	(5E+2)	-	-	-	7E-6	7E-5
75	Rhenium-177 ²	D, all compounds except those given for W	9E+4	3E+5	1E-4	4E-7	-	-
		St wall	(1E+5)	-	-	-	2E-3	2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 ²	D, see ^{177}Re	7E+4	3E+5	1E-4	4E-7	-	-
		St wall	(1E+5)	-	-	-	1E-3	1E-2
		W, see ^{177}Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ^{177}Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ^{177}Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see ^{177}Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see ^{177}Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182 (64.0 h)	D, see ^{177}Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see ^{177}Re	-	2E+3	9E-7	3E-9	-	-
75	Rhenium-184m	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ^{177}Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{177}Re	-	1E+3	6E-7	2E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
75	Rhenium-186m	D, see ¹⁷⁷ Re	1E+3	2E+3	7E-7	-	-	-
			St wall (2E+3)	St wall (2E+3)	-	3E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ¹⁷⁷ Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
			St wall (9E+5)	-	1E-6	-	-	-
		W, see ¹⁷⁷ Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m ²	D, see ¹⁷⁷ Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ¹⁷⁷ Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ¹⁷⁷ Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ¹⁷⁷ Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 ²	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 ²	D, see ¹⁸⁰ Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ¹⁸⁰ Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ¹⁸⁰ Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ¹⁸⁰ Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
		Y, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ¹⁸⁰ Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ¹⁸⁰ Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ¹⁸⁰ Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ¹⁸⁰ Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ¹⁸⁰ Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ¹⁸⁰ Os	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (3E+3)	-	-	-	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ¹⁸⁰ Os	-	1E+3	6E-7	2E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
76	Osmium-193	D, see ¹⁸⁰ Os	2E+3	5E+3	2E-6	6E-9	-	-
		LLI wall	(2E+3)	-	-	-	2E-5	2E-4
		W, see ¹⁸⁰ Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ¹⁸⁰ Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ¹⁸⁰ Os	4E+2	4E+1	2E-8	6E-11	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
		W, see ¹⁸⁰ Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ¹⁸⁰ Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182 ²	D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
		St wall	(4E+4)	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ¹⁸² Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ¹⁸² Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ¹⁸² Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ¹⁸² Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ¹⁸² Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ¹⁸² Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ¹⁸² Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ¹⁸² Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ¹⁸² Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ¹⁸² Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ¹⁸² Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁸² Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ¹⁸² Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ¹⁸² Ir	5E+3	5E+3	2E-6	7E-9	-	-
		LLI wall	(5E+3)	-	-	-	7E-5	7E-4
		W, see ¹⁸² Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ¹⁸² Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m ²	D, see ¹⁸² Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ¹⁸² Ir	-	2E+5	9E-5	3E-7	-	-
		Y, see ¹⁸² Ir	-	2E+5	8E-5	3E-7	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)
		Oral Ingestion ALI (μCi)	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	
			ALI (μCi)	DAC ($\mu\text{Ci/ml}$)			
77 Iridium-190	D, see ^{182}Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
	W, see ^{182}Ir	-	1E+3	4E-7	1E-9	-	-
	Y, see ^{182}Ir	-	9E+2	4E-7	1E-9	-	-
77 Iridium-192m	D, see ^{182}Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
	W, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
	Y, see ^{182}Ir	-	2E+1	6E-9	2E-11	-	-
77 Iridium-192	D, see ^{182}Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
	W, see ^{182}Ir	-	4E+2	2E-7	6E-10	-	-
	Y, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
77 Iridium-194m	D, see ^{182}Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
	W, see ^{182}Ir	-	2E+2	7E-8	2E-10	-	-
	Y, see ^{182}Ir	-	1E+2	4E-8	1E-10	-	-
77 Iridium-194	D, see ^{182}Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
	W, see ^{182}Ir	-	2E+3	9E-7	3E-9	-	-
	Y, see ^{182}Ir	-	2E+3	8E-7	3E-9	-	-
77 Iridium-195m	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
	W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
	Y, see ^{182}Ir	-	2E+4	9E-6	3E-8	-	-
77 Iridium-195	D, see ^{182}Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
	W, see ^{182}Ir	-	5E+4	2E-5	7E-8	-	-
	Y, see ^{182}Ir	-	4E+4	2E-5	6E-8	-	-
78 Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78 Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78 Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78 Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78 Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
		LLI wall (3E+4)	-	-	-	4E-5	4E-4
78 Platinum-193	D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
		LLI wall (5E+4)	-	-	-	6E-4	6E-3
78 Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	3E-5	3E-4
78 Platinum-197m ²	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78 Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78 Platinum-199 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78 Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
		ALI (μCi)	ALI (μCi)	DAC (μCi/ml)			
79 Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
	W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
	Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79 Gold-194	D, see ¹⁹³ Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
	W, see ¹⁹³ Au	-	5E+3	2E-6	8E-9	-	-
	Y, see ¹⁹³ Au	-	5E+3	2E-6	7E-9	-	-
79 Gold-195	D, see ¹⁹³ Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
	W, see ¹⁹³ Au	-	1E+3	6E-7	2E-9	-	-
	Y, see ¹⁹³ Au	-	4E+2	2E-7	6E-10	-	-
79 Gold-198m	D, see ¹⁹³ Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
	W, see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
	Y, see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
79 Gold-198	D, see ¹⁹³ Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
	W, see ¹⁹³ Au	-	2E+3	8E-7	3E-9	-	-
	Y, see ¹⁹³ Au	-	2E+3	7E-7	2E-9	-	-
79 Gold-199	D, see ¹⁹³ Au	3E+3 LLI wall	9E+3	4E-6	1E-8	-	-
		(3E+3)	-	-	-	4E-5	4E-4
	W, see ¹⁹³ Au	-	4E+3	2E-6	6E-9	-	-
79 Gold-200m	D, see ¹⁹³ Au	-	4E+3	2E-6	5E-9	-	-
	W, see ¹⁹³ Au	-	3E+3	1E-6	4E-9	-	-
	Y, see ¹⁹³ Au	-	2E+4	1E-6	3E-9	-	-
79 Gold-200 ²	D, see ¹⁹³ Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
	W, see ¹⁹³ Au	-	8E+4	3E-5	1E-7	-	-
	Y, see ¹⁹³ Au	-	7E+4	3E-5	1E-7	-	-
79 Gold-201 ²	D, see ¹⁹³ Au	7E+4 St wall	2E+5	9E-5	3E-7	-	-
		(9E+4)	-	-	-	1E-3	1E-2
	W, see ¹⁹³ Au	-	2E+5	1E-4	3E-7	-	-
80 Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
	Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
	D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
80 Mercury-193	W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
	Vapor	-	3E+4	1E-5	4E-8	-	-
	Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
80 Mercury-193	D, see ^{193m} Hg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
	W, see ^{193m} Hg	-	4E+4	2E-5	6E-8	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)
		Oral Ingestion	INHALATION		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	
			ALI (μCi)	ALI (μCi)			
80 Mercury-194	Vapor	-	3E+1	1E-8	4E-11	-	-
	Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
	D, see ^{193m} Hg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
	W, see ^{193m} Hg	-	1E+2	5E-8	2E-10	-	-
80 Mercury-195m	Vapor	-	4E+3	2E-6	6E-9	-	-
	Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
	D, see ^{193m} Hg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
	W, see ^{193m} Hg	-	4E+3	2E-6	5E-9	-	-
80 Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
	Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
	D, see ^{193m} Hg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
	W, see ^{193m} Hg	-	3E+4	1E-5	5E-8	-	-
80 Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
	Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
	D, see ^{193m} Hg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
	W, see ^{193m} Hg	-	5E+3	2E-6	7E-9	-	-
80 Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
	Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
	D, see ^{193m} Hg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
	W, see ^{193m} Hg	-	9E+3	4E-6	1E-8	-	-
80 Mercury-199m ²	Vapor	-	8E+4	3E-5	1E-7	-	-
	Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		(1E+5)	-	-	-	1E-3	1E-2
	D, see ^{193m} Hg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
80 Mercury-203	Vapor	-	2E+5	7E-5	2E-7	-	-
	Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
	D, see ^{193m} Hg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
	W, see ^{193m} Hg	-	1E+3	5E-7	2E-9	-	-
81 Thallium-194m ²	D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
		(7E+4)	-	-	-	1E-3	1E-2
81 Thallium-194 ²	D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
		(3E+5)	-	-	-	4E-3	4E-2
81 Thallium-195 ²	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81 Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81 Thallium-198m ²	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81 Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81 Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81 Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81 Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81 Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
			ALI (μCi)	ALI (μCi)				DAC (μCi/ml)
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E-1 Bone surf	2E-1 Bone surf	1E-10	-	-	-
			(1E+0)	(4E-1)	-	6E-13	1E-8	1E-7
82	Lead-211 ²	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E-3
82	Lead-212	D, all compounds	8E+1 Bone surf	3E+1	1E-8	5E-11	-	-
			(1E+2)	-	-	-	2E-6	2E-5
82	Lead-214 ²	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 ²	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 ²	D, see ²⁰⁰ Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 ²	D, see ²⁰⁰ Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see ²⁰⁰ Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see ²⁰⁰ Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see ²⁰⁰ Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see ²⁰⁰ Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see ²⁰⁰ Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ²⁰⁰ Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see ²⁰⁰ Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see ²⁰⁰ Bi	4E+1	5E+0	2E-9	-	-	-
		Kidneys	Kidneys					
			(6E+1)	(6E+0)	-	9E-12	8E-7	8E-6
		W, see ²⁰⁰ Bi	-	7E-1	3E-10	9E-13	-	-
83	Bismuth-210	D, see ²⁰⁰ Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
				Kidneys				
			-	(4E+2)	-	5E-10	-	-
		W, see ²⁰⁰ Bi	-	3E+1	1E-8	4E-11	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
83	Bismuth-212 ²	D, see ²⁰⁰ Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see ²⁰⁰ Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213 ²	D, see ²⁰⁰ Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214 ²	D, see ²⁰⁰ Bi	2E+4	8E+2	3E-7	1E-9	-	-
		St wall	(2E+4)	-	-	-	3E-4	3E-3
		W, see ²⁰⁰ Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203 ²	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205 ²	D, see ²⁰³ Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see ²⁰³ Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see ²⁰³ Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ²⁰³ Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see ²⁰³ Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see ²⁰³ Po	-	6E-1	3E-10	9E-13	-	-
85	Astatine-207 ²	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
				(or 12 working level months)	(or 1.0 working level)			
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
				(or 4 working level months)	(or 0.33 working level)			
87	Francium-222 ²	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 ²	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
		Bone surf	(9E+0)	-	-	-	1E-7	1E-6

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC ($\mu\text{Ci/ml}$)		Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)		
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 ²	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3 LLI wall	3E+1 Bone surf	1E-8	-	-	-
			(2E+3)	(4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ²²⁴ Ac	5E+1 LLI wall	3E-1 Bone surf	1E-10	-	-	-
			(5E+1)	(5E-1)	-	7E-13	7E-7	7E-6
		W, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
89	Actinium-226	D, see ²²⁴ Ac	1E+2 LLI wall	3E+0 Bone surf	1E-9	-	-	-
			(1E+2)	(4E+0)	-	5E-12	2E-6	2E-5
		W, see ²²⁴ Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ²²⁴ Ac	-	5E+0	2E-9	6E-12	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)	
89 Actinium-227	D, see ²²⁴ Ac	2E-1 Bone surf (4E-1)	4E-4 Bone surf (8E-4)	2E-13 -	-	-	5E-8
	W, see ²²⁴ Ac	-	2E-3 Bone surf (3E-3)	7E-13 -	-	-	-
	Y, see ²²⁴ Ac	-	4E-3	2E-12	6E-15	-	-
89 Actinium-228	D, see ²²⁴ Ac	2E+3	9E+0 Bone surf (2E+1)	4E-9 -	-	3E-5	3E-4
	W, see ²²⁴ Ac	-	4E+1 Bone surf (6E+1)	2E-8 -	2E-11	-	-
	Y, see ²²⁴ Ac	-	4E+1	2E-8	6E-11	-	-
90 Thorium-226 ²	W, all compounds except those given for Y	5E+3 St wall (5E+3)	2E+2 -	6E-8 -	2E-10	-	-
	Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
90 Thorium-227	W, see ²²⁶ Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
	Y, see ²²⁶ Th	-	3E-1	1E-10	5E-13	-	-
90 Thorium-228	W, see ²²⁶ Th	6E+0 Bone surf (1E+1)	1E-2 Bone surf (2E-2)	4E-12 -	-	-	-
	Y, see ²²⁶ Th	-	2E-2	7E-12	2E-14	-	-
90 Thorium-229	W, see ²²⁶ Th	6E-1 Bone surf (1E+0)	9E-4 Bone surf (2E-3)	4E-13 -	-	-	-
	Y, see ²²⁶ Th	-	2E-3 Bone surf (3E-3)	1E-12 -	-	-	-
90 Thorium-230	W, see ²²⁶ Th	4E+0 Bone surf (9E+0)	6E-3 Bone surf (2E-2)	3E-12 -	-	-	-
	Y, see ²²⁶ Th	-	2E-2 Bone surf (2E-2)	6E-12 -	-	-	-
90 Thorium-231	W, see ²²⁶ Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
	Y, see ²²⁶ Th	-	6E+3	3E-6	9E-9	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
90	Thorium-232	W, see ²²⁶ Th	7E-1	1E-3	5E-13	-	-	-
			Bone surf (2E+0)	Bone surf (3E-3)	-	4E-15	3E-8	3E-7
		Y, see ²²⁶ Th	-	3E-3	1E-12	-	-	-
			-	Bone surf (4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ²²⁶ Th	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		Y, see ²²⁶ Th	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227 ²	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ²²⁷ Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		Y, see ²²⁷ Pa	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see ²²⁷ Pa	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf (9E+2)	-	-	-	1E-5	1E-4
		Y, see ²²⁷ Pa	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see ²²⁷ Pa	2E-1	2E-3	6E-13	-	-	-
			Bone surf (5E-1)	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see ²²⁷ Pa	-	4E-3	2E-12	-	-	-
			-	Bone surf (6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see ²²⁷ Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ²²⁷ Pa	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see ²²⁷ Pa	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	E-5	2E-4
		Y, see ²²⁷ Pa	-	6E+2	2E-7	8E-10	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
91	Protactinium-234	W, see ²²⁷ Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ²²⁷ Pa	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
		Bone surf	(6E+0)	(6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCI	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-
92	Uranium-231	D, see ²³⁰ U	5E+3	8E+3	3E-6	1E-8	-	-
		LLI wall	(4E+3)	-	-	-	6E-5	6E-4
		W, see ²³⁰ U	-	6E+3	2E-6	8E-9	-	-
		Y, see ²³⁰ U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ²³⁰ U	2E+0	2E-1	9E-11	-	-	-
		Bone surf	(4E+0)	(4E-1)	-	6E-13	6E-8	6E-7
		W, see ²³⁰ U	-	4E-1	2E-10	5E-13	-	-
		Y, see ²³⁰ U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf	(2E+1)	(2E+0)	-	3E-12	3E-7	3E-6
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 ³	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf	(2E+1)	(2E+0)	-	3E-12	3E-7	3E-6
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 ³	D, see ²³⁰ U	1E+1	1E+0	6E-10	-	-	-
		Bone surf	(2E+1)	(2E+0)	-	3E-12	3E-7	3E-6
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf	(2E+1)	(2E+0)	-	3E-12	3E-7	3E-6
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)	
92 Uranium-237	D, see ²³⁰ U	2E+3 LLI wall (2E+3)	3E+3 -	1E-6 -	4E-9 -	- 3E-5	- 3E-4
	W, see ²³⁰ U	-	2E+3	7E-7	2E-9	-	-
	Y, see ²³⁰ U	-	2E+3	6E-7	2E-9	-	-
92 Uranium-238 ³	D, see ²³⁰ U	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	6E-10 -	- 3E-12	- 3E-7	- 3E-6
	W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
	Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92 Uranium-239 ²	D, see ²³⁰ U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
	W, see ²³⁰ U	-	2E+5	7E-5	2E-7	-	-
	Y, see ²³⁰ U	-	2E+5	6E-5	2E-7	-	-
92 Uranium-240	D, see ²³⁰ U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
	W, see ²³⁰ U	-	3E+3	1E-6	4E-9	-	-
	Y, see ²³⁰ U	-	2E+3	1E-6	3E-9	-	-
92 Uranium-natural ³	D, see ²³⁰ U	1E+1 Bone surf (2E+1)	1E+0 Bone surf (2E+0)	5E-10 -	- 3E-12	- 3E-7	- 3E-6
	W, see ²³⁰ U	-	8E-1	3E-10	9E-13	-	-
	Y, see ²³⁰ U	-	5E-2	2E-11	9E-14	-	-
93 Neptunium-232 ²	W, all compounds	1E+5	2E+3 Bone surf (5E+2)	7E-7 -	- 6E-9	2E-3 -	2E-2 -
93 Neptunium-233 ²	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93 Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93 Neptunium-235	W, all compounds	2E+4 LLI wall (2E+4)	8E+2 Bone surf (1E+3)	3E-7 -	- 2E-9	- 3E-4	- 3E-3
93 Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0 Bone surf (6E+0)	2E-2 Bone surf (5E-2)	9E-12 -	- 8E-14	- 9E-8	- 9E-7
93 Neptunium-236 (22.5 h)	W, all compounds	3E+3 Bone surf (4E+3)	3E+1 Bone surf (7E+1)	1E-8 -	- 1E-10	- 5E-5	- 5E-4
93 Neptunium-237	W, all compounds	5E-1 Bone surf (1E+0)	4E-3 Bone surf (1E-2)	2E-12 -	- 1E-14	- 2E-8	- 2E-7
93 Neptunium-238	W, all compounds	1E+3	6E+1 Bone surf (2E+2)	3E-8 -	- 2E-10	2E-5 -	2E-4 -

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
93	Neptunium-239	W, all compounds	2E+3 LLI wall (2E+3)	2E+3 -	9E-7 -	3E-9 -	- 2E-5 2E-4	- 2E-4
93	Neptunium-240 ²	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235 ²	W, see ²³⁴ Pu	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see ²³⁴ Pu	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see ²³⁴ Pu	2E+0 Bone surf (4E+0)	2E-2 Bone surf (4E-2)	8E-12 -	- 5E-14	- 6E-8	- 6E-7
		Y, see ²³⁴ Pu	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see ²³⁴ Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see ²³⁴ Pu	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see ²³⁴ Pu	9E-1 Bone surf (2E+0)	7E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see ²³⁴ Pu	-	2E-2	8E-12	2E-14	-	-
94	Plutonium-239	W, see ²³⁴ Pu	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see ²³⁴ Pu	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-240	W, see ²³⁴ Pu	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8	- 2E-7
		Y, see ²³⁴ Pu	-	2E-2 Bone surf (2E-2)	7E-12 -	- 2E-14	- -	- -
94	Plutonium-241	W, see ²³⁴ Pu	4E+1 Bone surf (7E+1)	3E-1 Bone surf (6E-1)	1E-10 -	- 8E-13	- 1E-6	- 1E-5
		Y, see ²³⁴ Pu	-	8E-1 Bone surf (1E+0)	3E-10 -	- 1E-12	- -	- -

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
ALI (μCi)	ALI (μCi)	DAC (μCi/ml)					
94 Plutonium-242	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
		Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
	Y, see ²³⁴ Pu	-	2E-2 Bone surf	7E-12	-	-	-
		-	(2E-2)	-	2E-14	-	-
94 Plutonium-243	W, see ²³⁴ Pu	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
	Y, see ²³⁴ Pu	-	4E+4	2E-5	5E-8	-	-
94 Plutonium-244	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
		Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
	Y, see ²³⁴ Pu	-	2E-2 Bone surf	7E-12	-	-	-
		-	(2E-2)	-	2E-14	-	-
94 Plutonium-245	W, see ²³⁴ Pu	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
	Y, see ²³⁴ Pu	-	4E+3	2E-6	6E-9	-	-
94 Plutonium-246	W, see ²³⁴ Pu	4E+2 LLI wall	3E+2	1E-7	4E-10	-	-
		(4E+2)	-	-	-	6E-6	6E-5
	Y, see ²³⁴ Pu	-	3E+2	1E-7	4E-10	-	-
95 Americium-237 ²	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95 Americium-238 ²	W, all compounds	4E+4	3E+3 Bone surf	1E-6	-	5E-4	5E-3
		-	(6E+3)	-	9E-9	-	-
95 Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95 Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95 Americium-241	W, all compounds	8E-1	6E-3	3E-12	-	-	-
		Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95 Americium-242m	W, all compounds	8E-1	6E-3	3E-12	-	-	-
		Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95 Americium-242	W, all compounds	4E+3	8E+1 Bone surf	4E-8	-	5E-5	5E-4
		-	(9E+1)	-	1E-10	-	-
95 Americium-243	W, all compounds	8E-1	6E-3	3E-12	-	-	-
		Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)	
95	Americium-244m ²	W, all compounds	6E+4 St wall (8E+4)	4E+3 Bone surf (7E+3)	2E-6 -	- 1E-8 1E-3	- 1E-2
95	Americium-244	W, all compounds	3E+3	2E+2 Bone surf (3E+2)	8E-8 -	- 4E-10	4E-4
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4
95	Americium-246m ²	W, all compounds	5E+4 St wall (6E+4)	2E+5 -	8E-5 -	3E-7 -	- 8E-4
95	Americium-246 ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4
96	Curium-240	W, all compounds	6E+1 Bone surf (8E+1)	6E-1 Bone surf (6E-1)	2E-10 -	- 9E-13	- 1E-6
96	Curium-241	W, all compounds	1E+3	3E+1 Bone surf (4E+1)	1E-8 -	- 5E-11	2E-4
96	Curium-242	W, all compounds	3E+1 Bone surf (5E+1)	3E-1 Bone surf (3E-1)	1E-10 -	- 4E-13	- 7E-7
96	Curium-243	W, all compounds	1E+0 Bone surf (2E+0)	9E-3 Bone surf (2E-2)	4E-12 -	- 2E-14	- 3E-8
96	Curium-244	W, all compounds	1E+0 Bone surf (3E+0)	1E-2 Bone surf (2E-2)	5E-12 -	- 3E-14	- 3E-8
96	Curium-245	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8
96	Curium-246	W, all compounds	7E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8
96	Curium-247	W, all compounds	8E-1 Bone surf (1E+0)	6E-3 Bone surf (1E-2)	3E-12 -	- 2E-14	- 2E-8
96	Curium-248	W, all compounds	2E-1 Bone surf (4E-1)	2E-3 Bone surf (3E-3)	7E-13 -	- 4E-15	- 5E-9

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)		
		ALI (μCi)	ALI (μCi)	DAC (μCi/ml)				
96	Curium-249 ²	W, all compounds	5E+4	2E+4 Bone surf	7E-6	-	7E-4	7E-3
			-	(3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2 Bone surf	3E-4 Bone surf	1E-13	-	-	-
			(6E-2)	(5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1 Bone surf	4E-3 Bone surf	2E-12	-	-	-
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2 Bone surf	2E+0 Bone surf	7E-10	-	-	-
			(5E+2)	(4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2 Bone surf	1E-7	-	1E-4	1E-3
			-	(7E+2)	-	1E-9	-	-
98	Californium-244 ²	W, all compounds except those given for Y	3E+4 St wall	6E+2	2E-7	8E-10	-	-
			(3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ²⁴⁴ Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ²⁴⁴ Cf	8E+0 Bone surf	6E-2 Bone surf	3E-11	-	-	-
			(2E+1)	(1E-1)	-	2E-13	2E-7	2E-6
		Y, see ²⁴⁴ Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ²⁴⁴ Cf	5E-1 Bone surf	4E-3 Bone surf	2E-12	-	-	-
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2 Bone surf	4E-12	-	-	-
			-	(1E-2)	-	2E-14	-	-
98	Californium-250	W, see ²⁴⁴ Cf	1E+0 Bone surf	9E-3 Bone surf	4E-12	-	-	-
			(2E+0)	(2E-2)	-	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	4E-14	-	-

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)	
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)		
98	Californium-251	W, see ²⁴⁴ Cf	5E-1 Bone surf (1E+0)	4E-3 Bone surf (9E-3)	2E-12	-	-	-
		Y, see ²⁴⁴ Cf	-	1E-2 Bone surf (1E-2)	4E-12	-	-	-
98	Californium-252	W, see ²⁴⁴ Cf	2E+0 Bone surf (5E+0)	2E-2 Bone surf (4E-2)	8E-12	-	-	-
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	5E-14	-	-
98	Californium-253	W, see ²⁴⁴ Cf	2E+2 Bone surf (4E+2)	2E+0	8E-10	3E-12	-	-
		Y, see ²⁴⁴ Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ²⁴⁴ Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4 Bone surf (1E+3)	5E+2	2E-7	-	6E-4	6E-3
99	Einsteinium-251	W, all compounds	7E+3	9E+2 Bone surf (1E+3)	4E-7	-	1E-4	1E-3
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
99	Einsteinium-254	W, all compounds	(3E+2) Bone surf (2E+1)	- Bone surf (1E-1)	-	-	4E-6	4E-5
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1 Bone surf (4E+1)	2E-1 Bone surf (2E-1)	7E-11	-	-	-
101	Mendelevium-257	W, all compounds	7E+3	8E+1 Bone surf	4E-8	-	1E-4	1E-3

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion	INHALATION		Air (μCi/ml)	Water (μCi/ml)	
		ALI (μCi)	ALI (μCi)	DAC (μCi/ml)			
		-	(9E+1)	-	1E-10	-	-
101	Mendelevium-258 W, all compounds	3E+1	2E-1	1E-10	-	-	-
		Bone surf	Bone surf				
		(5E+1)	(3E-1)	-	5E-13	6E-7	6E-6
	- Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours Submersion ¹	-	2E+2	1E-7	1E-9	-	-
	- Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours	-	2E-1	1E-10	1E-12	1E-8	1E-7
	- Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radio-nuclide in the mixture is not known	-	4E-4	2E-13	1E-15	2E-9	2E-8

FOOTNOTES:

¹“Submersion” means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.

²These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class “Submersion,” are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E-7 μCi/ml for the listed DAC to account for the submersion dose prospectively, but should use individual monitoring devices or other radiation measuring instruments that measure external exposure to demonstrate compliance with the limits. (see 40.17)

³For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see 40.15(5)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour workweek is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour workweek shall not exceed 8E-3 (SA) μCi-hr/ml, where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is 6.77E-7 curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$SA = 3.6E-7 \text{ curies/gram U U-depleted}$$

$$SA = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] E-6, \text{ enrichment} \geq 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

NOTE:

1. If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.

2. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this appendix for any radionuclide that is not known to be absent from the mixture; or

If it is known that Ac-227-D and Cm-250-W are not present

-	7E-4	3E-13	-	-	-
---	------	-------	---	---	---

If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present

-	7E-3	3E-12	-	-	-
---	------	-------	---	---	---

If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-W,Y, and Cf-254-W,Y are not present

-	7E-2	3E-11	-	-	-
---	------	-------	---	---	---

Atomic Radio-nuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (μCi/ml)
		Oral Ingestion ALI (μCi)	INHALATION ALI (μCi) DAC (μCi/ml)		Air (μCi/ml)	Water (μCi/ml)	
If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present							
		-	7E-1	3E-10	-	-	-
If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D,Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D, W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present							
		-	7E+0	3E-9	-	-	-
If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W, Y, Cm-248-W, and Cm-250-W are not present							
		-	-	-	-	1E-14	-
If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present							
		-	-	-	1E-13	-	-
If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D, W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present							
		-	-	-	-	1E-12	-
If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present							
		-	-	-	-	1E-6	1E-5

3. If a mixture of radionuclides consists of uranium and its daughters in ore dust (10 μm AMAD particle distribution assumed) prior to chemical separation of the uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 μCi of gross alpha activity from uranium-238, uranium-234, thorium-230, and radium-226 per milliliter of air; 3E-11 μCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B, Chapter 40 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").

EXAMPLE: If radionuclides "A," "B," and "C" are present in concentrations C_A, C_B, and C_C, and if the applicable DACs are DAC_A, DAC_B, and DAC_C, respectively, then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

[ARC 8982B, IAB 8/11/10, effective 9/15/10]

CHAPTER 40

APPENDIX C

QUANTITIES¹ OF LICENSED OR REGISTERED MATERIAL REQUIRING LABELING

Radionuclide	Quantity (μ Ci)*	Radionuclide	Quantity (μ Ci)*
Hydrogen-3	1,000	Chromium-48	1,000
Beryllium-7	1,000	Chromium-49	1,000
Beryllium-10	1	Chromium-51	1,000
Carbon-11	1,000	Manganese-51	1,000
Carbon-14	100	Manganese-52m	1,000
Fluorine-18	1,000	Manganese-52	100
Sodium-22	10	Manganese-53	1,000
Sodium-24	100	Manganese-54	100
Magnesium-28	100	Manganese-56	1,000
Aluminum-26	10	Iron-52	100
Silicon-31	1,000	Iron-55	100
Silicon-32	1	Iron-59	10
Phosphorus-32	10	Iron-60	1
Phosphorus-33	100	Cobalt-55	100
Sulfur-35	100	Cobalt-56	10
Chlorine-36	10	Cobalt-57	100
Chlorine-38	1,000	Cobalt-58m	1,000
Chlorine-39	1,000	Cobalt-58	100
Argon-39	1,000	Cobalt-60m	1,000
Argon-41	1,000	Cobalt-60	1
Potassium-40	100	Cobalt-61	1,000
Potassium-42	1,000	Cobalt-62m	1,000
Potassium-43	1,000	Nickel-56	100
Potassium-44	1,000	Nickel-57	100
Potassium-45	1,000	Nickel-59	100
Calcium-41	100	Nickel-63	100
Calcium-45	100	Nickel-65	1,000
Calcium-47	100	Nickel-66	10
Scandium-43	1,000	Copper-60	1,000
Scandium-44m	100	Copper-61	1,000
Scandium-44	100	Copper-64	1,000
Scandium-46	10	Copper-67	1,000
Scandium-47	100	Zinc-62	100
Scandium-48	100	Zinc-63	1,000
Scandium-49	1,000	Zinc-65	10
Titanium-44	1	Zinc-69m	100

Titanium-45	1,000	Zinc-69	1,000
Vanadium-47	1,000	Zinc-71m	1,000
Vanadium-48	100	Zinc-72	100
Vanadium-49	1,000	Gallium-65	1,000
Gallium-66	100	Krypton-81	1,000
Gallium-67	1,000	Krypton-83m	1,000
Gallium-68	1,000	Krypton-85m	1,000
Gallium-70	1,000	Krypton-85	1,000
Gallium-72	100	Krypton-87	1,000
Gallium-73	1,000	Krypton-88	1,000
Germanium-66	1,000	Rubidium-79	1,000
Germanium-67	1,000	Rubidium-81m	1,000
Germanium-68	10	Rubidium-81	1,000
Germanium-69	1,000	Rubidium-82m	1,000
Germanium-71	1,000	Rubidium-83	100
Germanium-75	1,000	Rubidium-84	100
Germanium-77	1,000	Rubidium-86	100
Germanium-78	1,000	Rubidium-87	100
Arsenic-69	1,000	Rubidium-88	1,000
Arsenic-70	1,000	Rubidium-89	1,000
Arsenic-71	100	Strontium-80	100
Arsenic-72	100	Strontium-81	1,000
Arsenic-73	100	Strontium-83	100
Arsenic-74	100	Strontium-85m	1,000
Arsenic-76	100	Strontium-85	100
Arsenic-77	100	Strontium-87m	1,000
Arsenic-78	1,000	Strontium-89	10
Selenium-70	1,000	Strontium-90	0.1
Selenium-73m	1,000	Strontium-91	100
Selenium-73	100	Strontium-92	100
Selenium-75	100	Yttrium-86m	1,000
Selenium-79	100	Yttrium-86	100
Selenium-81m	1,000	Yttrium-87	100
Selenium-81	1,000	Yttrium-88	10
Selenium-83	1,000	Yttrium-90m	1,000
Bromine-74m	1,000	Yttrium-90	10
Bromine-74	1,000	Yttrium-91m	1,000
Bromine-75	1,000	Yttrium-91	10
Bromine-76	100	Yttrium-92	100
Bromine-77	1,000	Yttrium-93	100
Bromine-80m	1,000	Yttrium-94	1,000
Bromine-80	1,000	Yttrium-95	1,000

Bromine-82	100	Zirconium-86	100
Bromine-83	1,000	Zirconium-88	10
Bromine-84	1,000	Zirconium-89	100
Krypton-74	1,000	Zirconium-93	1
Krypton-76	1,000	Zirconium-95	10
Krypton-77	1,000	Zirconium-97	100
Krypton-79	1,000		
Niobium-88	1,000	Palladium-101	1,000
Niobium-89m (66 min)	1,000	Palladium-103	100
Niobium-89 (122 min)	1,000	Palladium-107	10
Niobium-90	100	Palladium-109	100
Niobium-93m	10	Silver-102	1,000
Niobium-94	1	Silver-103	1,000
Niobium-95m	100	Silver-104m	1,000
Niobium-95	100	Silver-104	1,000
Niobium-96	100	Silver-105	100
Niobium-97	1,000	Silver-106m	100
Niobium-98	1,000	Silver-106	1,000
Molybdenum-90	100	Silver-108m	1
Molybdenum-93m	100	Silver-110m	10
Molybdenum-93	10	Silver-111	100
Molybdenum-99	100	Silver-112	100
Molybdenum-101	1,000	Silver-115	1,000
Technetium-93m	1,000	Cadmium-104	1,000
Technetium-93	1,000	Cadmium-107	1,000
Technetium-94m	1,000	Cadmium-109	1
Technetium-94	1,000	Cadmium-113m	0.1
Technetium-96m	1,000	Cadmium-113	100
Technetium-96	100	Cadmium-115m	10
Technetium-97m	100	Cadmium-115	100
Technetium-97	1,000	Cadmium-117m	1,000
Technetium-98	10	Cadmium-117	1,000
Technetium-99m	1,000	Indium-109	1,000
Technetium-99	100	Indium-110m (69.1m)	1,000
Technetium-101	1,000	Indium-110 (4.9h)	1,000
Technetium-104	1,000	Indium-111	100
Ruthenium-94	1,000	Indium-112	1,000
Ruthenium-97	1,000	Indium-113m	1,000
Ruthenium-103	100	Indium-114m	10
Ruthenium-105	1,000	Indium-115m	1,000

Ruthenium-106	1	Indium-115	100
Rhodium-99m	1,000	Indium-116m	1,000
Rhodium-99	100	Indium-117m	1,000
Rhodium-100	100	Indium-117	1,000
Rhodium-101m	1,000	Indium-119m	1,000
Rhodium-101	10	Tin-110	100
Rhodium-102m	10	Tin-111	1,000
Rhodium-102	10	Tin-113	100
Rhodium-103m	1,000	Tin-117m	100
Rhodium-105	100	Tin-119m	100
Rhodium-106m	1,000	Tin-121m	100
Rhodium-107	1,000	Tin-121	1,000
Palladium-100	100		
Tin-123m	1,000	Tellurium-133	1,000
Tin-123	10	Tellurium-134	1,000
Tin-125	10	Iodine-120m	1,000
Tin-126	10	Iodine-120	100
Tin-127	1,000	Iodine-121	1,000
Tin-128	1,000	Iodine-123	100
Antimony-115	1,000	Iodine-124	10
Antimony-116m	1,000	Iodine-125	1
Antimony-116	1,000	Iodine-126	1
Antimony-117	1,000	Iodine-128	1,000
Antimony-118m	1,000	Iodine-129	1
Antimony-119	1,000	Iodine-130	10
Antimony-120		Iodine-131	1
(16m)	1,000	Iodine-132m	100
Antimony-120		Iodine-132	100
(5.76d)	100	Iodine-133	10
Antimony-122	100	Iodine-134	1,000
Antimony-124m	1,000	Iodine-135	100
Antimony-124	10	Xenon-120	1,000
Antimony-125	100	Xenon-121	1,000
Antimony-126m	1,000	Xenon-122	1,000
Antimony-126	100	Xenon-123	1,000
Antimony-127	100	Xenon-125	1,000
Antimony-128		Xenon-127	1,000
(10.4m)	1,000	Xenon-129m	1,000
Antimony-128		Xenon-131m	1,000
(9.01h)	100	Xenon-133m	1,000
Antimony-129	100	Xenon-133	1,000
Antimony-130	1,000	Xenon-135m	1,000

Antimony-131	1,000	Xenon-135	1,000
Tellurium-116	1,000	Xenon-138	1,000
Tellurium-121m	10	Cesium-125	1,000
Tellurium-121	100	Cesium-127	1,000
Tellurium-123m	10	Cesium-129	1,000
Tellurium-123	100	Cesium-130	1,000
Tellurium-125m	10	Cesium-131	1,000
Tellurium-127m	10	Cesium-132	100
Tellurium-127	1,000	Cesium-134m	1,000
Tellurium-129m	10	Cesium-134	10
Tellurium-129	1,000	Cesium-135m	1,000
Tellurium-131m	10	Cesium-135	100
Tellurium-131	100	Cesium-136	10
Tellurium-132	10	Cesium-137	10
Tellurium-133m	100	Cesium-138	1,000
Barium-126	1,000	Promethium-141	1,000
Barium-128	100	Promethium-143	100
Barium-131m	1,000	Promethium-144	10
Barium-131	100	Promethium-145	10
Barium-133m	100	Promethium-146	1
Barium-133	100	Promethium-147	10
Barium-135m	100	Promethium-148m	10
Barium-139	1,000	Promethium-148	10
Barium-140	100	Promethium-149	100
Barium-141	1,000	Promethium-150	1,000
Barium-142	1,000	Promethium-151	100
Lanthanum-131	1,000	Samarium-141m	1,000
Lanthanum-132	100	Samarium-141	1,000
Lanthanum-135	1,000	Samarium-142	1,000
Lanthanum-137	10	Samarium-145	100
Lanthanum-138	100	Samarium-146	1
Lanthanum-140	100	Samarium-147	100
Lanthanum-141	100	Samarium-151	10
Lanthanum-142	1,000	Samarium-153	100
Lanthanum-143	1,000	Samarium-155	1,000
Cerium-134	100	Samarium-156	1,000
Cerium-135	100	Europium-145	100
Cerium-137m	100	Europium-146	100
Cerium-137	1,000	Europium-147	100
Cerium-139	100	Europium-148	10
Cerium-141	100	Europium-149	100

Cerium-143	100	Europium-150	
Cerium-144	1	(12.62h)	100
Praseodymium-136	1,000	Europium-150	
Praseodymium-137	1,000	(34.2y)	1
Praseodymium-138m	1,000	Europium-152m	100
Praseodymium-139	1,000	Europium-152	1
Praseodymium-142m	1,000	Europium-154	1
Praseodymium-142	100	Europium-155	10
Praseodymium-143	100	Europium-156	100
Praseodymium-144	1,000	Europium-157	100
Praseodymium-145	100	Europium-158	1,000
Praseodymium-147	1,000	Gadolinium-145	1,000
Neodymium-136	1,000	Gadolinium-146	10
Neodymium-138	100	Gadolinium-147	100
Neodymium-139m	1,000	Gadolinium-148	0.001
Neodymium-139	1,000	Gadolinium-149	100
Neodymium-141	1,000	Gadolinium-151	10
Neodymium-147	100	Gadolinium-152	100
Neodymium-149	1,000	Gadolinium-153	10
Neodymium-151	1,000	Gadolinium-159	100
Terbium-147	1,000	Ytterbium-162	1,000
Terbium-149	100	Ytterbium-166	100
Terbium-150	1,000	Ytterbium-167	1,000
Terbium-151	100	Ytterbium-169	100
Terbium-153	1,000	Ytterbium-175	100
Terbium-154	100	Ytterbium-177	1,000
Terbium-155	1,000	Ytterbium-178	1,000
Terbium-156m		Lutetium-169	100
(5.0h)	1,000	Lutetium-170	100
Terbium-156m		Lutetium-171	100
(24.4h)	1,000	Lutetium-172	100
Terbium-156	100	Lutetium-173	10
Terbium-157	10	Lutetium-174m	10
Terbium-158	1	Lutetium-174	10
Terbium-160	10	Lutetium-176m	1,000
Terbium-161	100	Lutetium-176	100
Dysprosium-155	1,000	Lutetium-177m	10
Dysprosium-157	1,000	Lutetium-177	100
Dysprosium-159	100	Lutetium-178m	1,000
Dysprosium-165	1,000	Lutetium-178	1,000
Dysprosium-166	100	Lutetium-179	1,000
Holmium-155	1,000	Hafnium-170	100

Holmium-157	1,000	Hafnium-172	1
Holmium-159	1,000	Hafnium-173	1,000
Holmium-161	1,000	Hafnium-175	100
Holmium-162m	1,000	Hafnium-177m	1,000
Holmium-162	1,000	Hafnium-178m	0.1
Holmium-164m	1,000	Hafnium-179m	10
Holmium-164	1,000	Hafnium-180m	1,000
Holmium-166m	1	Hafnium-181	10
Holmium-166	100	Hafnium-182m	1,000
Holmium-167	1,000	Hafnium-182	0.1
Erbium-161	1,000	Hafnium-183	1,000
Erbium-165	1,000	Hafnium-184	100
Erbium-169	100	Tantalum-172	1,000
Erbium-171	100	Tantalum-173	1,000
Erbium-172	100	Tantalum-174	1,000
Thulium-162	1,000	Tantalum-175	1,000
Thulium-166	100	Tantalum-176	100
Thulium-167	100	Tantalum-177	1,000
Thulium-170	10	Tantalum-178	1,000
Thulium-171	10	Tantalum-179	100
Thulium-172	100	Tantalum-180m	1,000
Thulium-173	100	Tantalum-180	100
Thulium-175	1,000	Tantalum-182m	1,000
Tantalum-182	10	Iridium-188	100
Tantalum-183	100	Iridium-189	100
Tantalum-184	100	Iridium-190m	1,000
Tantalum-185	1,000	Iridium-190	100
Tantalum-186	1,000	Iridium-192m	
Tungsten-176	1,000	(1.4m)	10
Tungsten-177	1,000	Iridium-192	
Tungsten-178	1,000	(73.8d)	1
Tungsten-179	1,000	Iridium-194m	10
Tungsten-181	1,000	Iridium-194	100
Tungsten-185	100	Iridium-195m	1,000
Tungsten-187	100	Iridium-195	1,000
Tungsten-188	10	Platinum-186	1,000
Rhenium-177	1,000	Platinum-188	100
Rhenium-178	1,000	Platinum-189	1,000
Rhenium-181	1,000	Platinum-191	100
Rhenium-182		Platinum-193m	100
(12.7h)	1,000	Platinum-193	1,000

Rhenium-182 (64.0h)	100	Platinum-195m	100
Rhenium-184m	10	Platinum-197m	1,000
Rhenium-184	100	Platinum-197	100
Rhenium-186m	10	Platinum-199	1,000
Rhenium-186	100	Platinum-200	100
Rhenium-187	1,000	Gold-193	1,000
Rhenium-188m	1,000	Gold-194	100
Rhenium-188	100	Gold-195	10
Rhenium-189	100	Gold-198m	100
Osmium-180	1,000	Gold-198	100
Osmium-181	1,000	Gold-199	100
Osmium-182	100	Gold-200m	100
Osmium-185	100	Gold-200	1,000
Osmium-189m	1,000	Gold-201	1,000
Osmium-191m	1,000	Mercury-193m	100
Osmium-191	100	Mercury-193	1,000
Osmium-193	100	Mercury-194	1
Osmium-194	1	Mercury-195m	100
Iridium-182	1,000	Mercury-195	1,000
Iridium-184	1,000	Mercury-197m	100
Iridium-185	1,000	Mercury-197	1,000
Iridium-186	100	Mercury-199m	1,000
Iridium-187	1,000	Mercury-203	100
Thallium-194m	1,000	Francium-223	100
Thallium-194	1,000	Radium-223	0.1
Thallium-195	1,000	Radium-224	0.1
Thallium-197	1,000	Radium-225	0.1
Thallium-198m	1,000	Radium-226	0.1
Thallium-198	1,000	Radium-227	1,000
Thallium-199	1,000	Radium-228	0.1
Thallium-200	1,000	Actinium-224	1
Thallium-201	1,000	Actinium-225	0.01
Thallium-202	100	Actinium-226	0.1
Thallium-204	100	Actinium-227	0.001
Lead-195m	1,000	Actinium-228	1
Lead-198	1,000	Thorium-226	10
Lead-199	1,000	Thorium-227	0.01
Lead-200	100	Thorium-228	0.001
Lead-201	1,000	Thorium-229	0.001
Lead-202m	1,000	Thorium-230	0.001
Lead-202	10	Thorium-231	100

Lead-203	1,000	Thorium-232	100
Lead-205	100	Thorium-234	10
Lead-209	1,000	Thorium-natural	100
Lead-210	0.01	Protactinium-227	10
Lead-211	100	Protactinium-228	1
Lead-212	1	Protactinium-230	0.1
Lead-214	100	Protactinium-231	0.001
Bismuth-200	1,000	Protactinium-232	1
Bismuth-201	1,000	Protactinium-233	100
Bismuth-202	1,000	Protactinium-234	100
Bismuth-203	100	Uranium-230	0.01
Bismuth-205	100	Uranium-231	100
Bismuth-206	100	Uranium-232	0.001
Bismuth-207	10	Uranium-233	0.001
Bismuth-210m	0.1	Uranium-234	0.001
Bismuth-210	1	Uranium-235	0.001
Bismuth-212	10	Uranium-236	0.001
Bismuth-213	10	Uranium-237	100
Bismuth-214	100	Uranium-238	100
Polonium-203	1,000	Uranium-239	1,000
Polonium-205	1,000	Uranium-240	100
Polonium-207	1,000	Uranium-natural	100
Polonium-210	0.1	Neptunium-232	100
Astatine-207	100	Neptunium-233	1,000
Astatine-211	10	Neptunium-234	100
Radon-220	1	Neptunium-235	100
Radon-222	1	Neptunium-236	
Francium-222	100	(1.15E+5)	0.001
Neptunium-236		Curium-242	0.01
(22.5h)	1	Curium-243	0.001
Neptunium-237	0.001	Curium-244	0.001
Neptunium-238	10	Curium-245	0.001
Neptunium-239	100	Curium-246	0.001
Neptunium-240	1,000	Curium-247	0.001
Plutonium-234	10	Curium-248	0.001
Plutonium-235	1,000	Curium-249	1,000
Plutonium-236	0.001	Berkelium-245	100
Plutonium-237	100	Berkelium-246	100
Plutonium-238	0.001	Berkelium-247	0.001
Plutonium-239	0.001	Berkelium-249	0.1
Plutonium-240	0.001	Berkelium-250	10
Plutonium-241	0.01	Californium-244	100

Plutonium-242	0.001	Californium-246	1
Plutonium-243	1,000	Californium-248	0.01
Plutonium-244	0.001	Californium-249	0.001
Plutonium-245	100	Californium-250	0.001
Americium-237	1,000	Californium-251	0.001
Americium-238	100	Californium-252	0.001
Americium-239	1,000	Californium-253	0.1
Americium-240	100	Californium-254	0.001
Americium-241	0.001	Einsteinium-250	100
Americium-242m	0.001	Einsteinium-251	100
Americium-242	10	Einsteinium-253	0.1
Americium-243	0.001	Einsteinium-254m	1
Americium-244m	100	Einsteinium-254	0.01
Americium-244	10	Fermium-252	1
Americium-245	1,000	Fermium-253	1
Americium-246m	1,000	Fermium-254	10
Americium-246	1,000	Fermium-255	1
Curium-238	100	Fermium-257	0.01
Curium-240	0.1	Mendelevium-257	10
Curium-241	1	Mendelevium-258	0.01
Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001	Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01

*To convert μCi to kBq , multiply the μCi value by 37.

¹The quantities listed above were derived by taking 1/10th of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to this chapter, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000 μCi), to take into account their low specific activity.

NOTE: For purposes of 40.61(5), 40.64(1), and 40.95(1) where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1"—that is, unity.

CHAPTER 40

APPENDIX D

REQUIREMENTS FOR TRANSFERS AND MANIFESTS OF LOW-LEVEL RADIOACTIVE WASTE INTENDED FOR DISPOSAL AT LICENSED LAND DISPOSAL FACILITIES

As used in this appendix, the following definitions apply:

“Chelating agent” means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carboic acid, and glucinic acid).

“Chemical description” means a description of the principal chemical characteristics of a low-level radioactive waste.

“Computer-readable medium” means that the regulatory agency’s computer can transfer the information from the medium into its memory.

“Consignee” means the designated receiver of the shipment of low-level radioactive waste.

“Decontamination facility” means a facility operating under an Agreement State or Nuclear Regulatory Commission license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives and, for purposes of this appendix, is not considered to be a consignee for LLW shipments.

“Disposal container” means a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see “high integrity container”). Note that for some shipments, the disposal container may be the transport package.

“EPA identification number” means the number received by a transporter following application to the administrator of EPA as required by 40 CFR Part 263.

“Forms 540, 540A, 541, 541A, 542, and 542A” are official forms referenced in this appendix. Licensees need not use originals of these forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, Forms 541 (and 541A) and Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media must have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

“Generator” means a licensee operating under an Agreement State or Nuclear Regulatory Commission license who (1) is a waste generator as defined in this rule, or (2) is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

“High integrity container (HIC)” means a container commonly designed to meet the structural stability requirements of 10 CFR 61.56, and to meet United States Department of Transportation requirements for a Type A package.

“Land disposal facility” means the land, buildings and structures, and equipment which are intended to be used for the disposal of radioactive wastes. For purposes of this appendix, a “geologic repository” as defined in 10 CFR Part 60 is not considered a land disposal facility.

“Package” means the assembly of components necessary to ensure compliance with the packaging requirements of United States Department of Transportation regulations, together with its radioactive contents, as presented for transport.

“Physical description” means the items called for on Form 541 to describe a low-level radioactive waste.

“Residual waste” means low-level radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

“Shipper” means the licensed entity (i.e., the waste generator, waste collector, or waste processor) who offers low-level radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

“Shipping paper” means Form 540 and, if required, Form 540A which includes the information required by United States Department of Transportation in 49 CFR Part 172.

“Uniform Low-Level Radioactive Waste Manifest” or “uniform manifest” means the combination of Forms 540, 541 and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

“Waste collector” means an entity, operating under an Agreement State or Nuclear Regulatory Commission license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

“Waste description” means the physical, chemical and radiological description of a low-level radioactive waste as called for on Form 541.

“Waste generator” means an entity, operating under an Agreement State or Nuclear Regulatory Commission license, who (1) possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use, and (2) transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal. A licensee performing processing or decontamination services may be a “waste generator” if the transfer of low-level radioactive waste from its facility is defined as “residual waste.”

“Waste processor” means an entity, operating under an Agreement State or Nuclear Regulatory Commission license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

“Waste type” means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified in a specifically defined media).

I. Manifest

A waste generator, collector, or processor who transports, or offers for transportation, low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a manifest reflecting information requested on applicable Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). Forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, Forms 541 and 541A and 542 and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms. Licensees are not required by this agency to comply with the manifesting requirements of this part when they ship:

(a) LLW for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

(b) LLW that is being returned to the licensee who is the “waste generator” or “generator,” as defined in this part; or

(c) Radioactively contaminated material to a “waste processor” that becomes the processor’s “residual waste.”

For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this appendix may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.

NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0111, telephone (301) 415-5877 or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

This appendix includes information requirements of the United States Department of Transportation, as codified in 49 CFR Part 172. Information on hazardous, medical, or other waste required to meet Environmental Protection Agency regulations, as codified in 40 CFR Parts 259, 261, or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, the required EPA forms must accompany the Uniform Low-Level Radioactive Waste Manifest required by this chapter.

Information Requirements

A. General Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest:

1. The name, facility's address, and telephone number of the licensee shipping the waste;
2. An explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and
3. The name, address, and telephone number, or the name and EPA identification number, for the carrier transporting the waste.

B. Shipment Information

The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

1. The date of the waste shipment;
2. The total number of packages/disposal containers;
3. The total disposal volume and disposal weight in the shipment;
4. The total radionuclide activity in the shipment;
5. The activity of each of the radionuclides, H-3, C-14, Tc-99, and I-129 contained in the shipment; and
6. The total masses of U-233, U-235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

C. Disposal Container and Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

1. An alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;
2. A physical description of the disposal container, including the manufacturer and model of any high integrity container;
3. The volume displaced by the disposal container;
4. The gross weight of the disposal container, including the waste;
5. For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;
6. A physical and chemical description of the waste;
7. The total weight percentage of chelating agent for any waste containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;
8. The approximate volume of waste within a container;
9. The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name;
10. The identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained in these waste types within a disposal container shall be reported;
11. The total radioactivity within each container; and
12. For wastes consigned to a disposal facility, the classification of the waste pursuant to 10 CFR 61.55. Waste not meeting the structural stability requirements of 10 CFR 61.56(b) must be identified.

D. Uncontainerized Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

1. The approximate volume and weight of the waste;
2. A physical and chemical description of the waste;
3. The total weight percentage of chelating agent if the chelating agent exceeds 0.1 percent by weight, plus the identity of the principal chelating agent;

4. For waste consigned to a disposal facility, the classification of the waste pursuant to 10 CFR 61.55. Waste not meeting the structural stability requirements of 10 CFR 61.56(b) must be identified;

5. The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

6. For wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

E. Multigenerator Disposal Container Information

This section applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor's activities may be attributable to one or more "generators" (including "waste generators") as defined in this appendix.) It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators.

1. For homogeneous mixtures of waste, such as incinerator ash, provide the waste description applicable to the mixture and the volume of the waste attributed to each generator.

2. For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container and, for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained in these waste types within the disposal container. For each generator, provide the following:

(a) The volume of waste within the disposal container;

(b) A physical and chemical description of the waste, including the solidification agent, if any;

(c) The total weight percentage of chelating agents for any disposal container containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;

(d) The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in 10 CFR 61.56(b); and

(e) Radionuclide identities and activities contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

II. Certification

An authorized representative of the waste generator, processor, or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation and this agency. A collector in signing the certification is certifying that nothing has been done to the collected waste that would invalidate the waste generator's certification.

III. Control and Tracking

A. Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in paragraphs A.1. through A.9. of this appendix. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of paragraphs A.4. through A.9. of this appendix. A licensee shall:

1. Prepare all wastes so that the waste is classified according to 10 CFR 61.55 and meets the waste characteristics requirements in 10 CFR 61.56;

2. Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater than Class C waste, in accordance with 10 CFR 61.55;

3. Conduct a quality assurance program to ensure compliance with 10 CFR 61.55 and 61.56 (the program must include management evaluation of audits);

4. Prepare the Uniform Low-Level Radioactive Waste Manifest as required by this appendix;

5. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either (1) receipt of the manifest precedes the LLW shipment or (2) the

manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (1) and (2) is also acceptable;

6. Include Form 540 (and Form 540A, if required) with the shipment regardless of the option chosen in paragraph A.5. of this section;

7. Receive acknowledgment of the receipt of the shipment in the form of a signed copy of Form 540;

8. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 641—subrule 39.4(41); and

9. For any shipments or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix.

B. Any waste collector licensee who handles only prepackaged waste shall:

1. Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of Form 540;

2. Prepare a new manifest to reflect consolidated shipments that meet the requirements of this appendix. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

3. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: (1) receipt of the manifest precedes the LLW shipment or (2) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (1) and (2) is also acceptable;

4. Include Form 540 (and Form 540A, if required) with the shipment regardless of the option chosen in paragraph B.3. of this section;

5. Receive acknowledgment of the receipt of the shipment in the form of a signed copy of Form 540;

6. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 641—subrule 39.4(41);

7. For any shipments or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix; and

8. Notify the shipper and this agency when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

C. Any licensed waste processor who treats or repackages waste shall:

1. Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of Form 540;

2. Prepare a new manifest that meets the requirements of this appendix. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in paragraph E.1. of this appendix;

3. Prepare all wastes so that the waste is classified according to 10 CFR 61.55 and meets the waste characteristics requirements in 10 CFR 61.56;

4. Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with 10 CFR 61.55 and 61.57;

5. Conduct a quality assurance program to ensure compliance with 10 CFR 61.55 and 61.56 (the program shall include management evaluation of audits);

6. Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either (1) receipt of the manifest precedes the LLW shipment or (2) the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both (1) and (2) is also acceptable;

7. Include Form 540 (and Form 540A, if required) with the shipment regardless of the option chosen in paragraph C.6. of this section;

8. Receive acknowledgment of the receipt of the shipment in the form of a signed copy of Form 540;

9. Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 641—subrule 39.4(41);

10. For any shipment or any part of a shipment for which acknowledgment of receipt has not been received within the times set forth in this appendix, conduct an investigation in accordance with paragraph E of this appendix; and

11. Notify the shipper and this agency of any shipment, or part of a shipment, that has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

D. The land disposal facility operator shall:

1. Acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

2. Maintain copies of all completed manifests and electronically store the information required by 10 CFR 61.80(l) until the license is terminated; and

3. Notify the shipper and this agency when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

E. Any shipment or part of a shipment for which acknowledgment is not received within the times set forth in this section must:

1. Be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer; and

2. Be traced and reported. The investigation shall include tracing the shipment and filing a report with this agency. Each licensee who conducts a trace investigation shall file a written report with this agency within two weeks of completion of the investigation.

CHAPTER 40

APPENDIX E

CLASSIFICATION AND CHARACTERISTICS OF LOW-LEVEL
RADIOACTIVE WASTE

I. Classification of Radioactive Waste for Land Disposal

a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

b) Classes of waste.

1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II. (a). If Class A waste also meets the stability requirements set forth in Section II. (b), it is not necessary to segregate the waste for disposal.

2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.

3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.

c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:

1) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.

2) If the concentration exceeds 0.1 times the value in Table I, but does not exceed the value in Table I, the waste is Class C.

3) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.

4) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I.(g).

TABLE I

Radionuclide	Concentration	
	curie/cubic meter ^a	nanocurie/gram ^b
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	

Tc-99	3	
I-129	0.08	
Alpha emitting transuranic radionuclides with half-life greater than five years		100
Pu-241		3,500
Cm-242		20,000
Ra-226		100

^a To convert the Ci/m³ values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37.

^bTo convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I.(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.

- 1) If the concentration does not exceed the value in Column 1, the waste is Class A.
- 2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.
- 3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.
- 4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
- 5) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I.(g).

TABLE II

Radionuclide	Concentration, Column 1	curie/cubic meter *	
		Column 2	Column 3
Total of all radionuclides with less than 5-year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

*AGENCY NOTE: To convert the Ci/m³ value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and some of which are listed in Table II, classification shall be determined as follows:

- 1) If the concentration of a radionuclide listed in Table I is less than 0.1 times the value listed in Table I, the class shall be that determined by the concentration of radionuclides listed in Table II.

2) If the concentration of a radionuclide listed in Table I exceeds 0.1 times the value listed in Table I, but does not exceed the value in Table I, the waste shall be Class C, provided the concentration of radionuclides listed in Table II does not exceed the value shown in Column 3 of Table II.

f) Classification of wastes with radionuclides other than those listed in Tables I and II. If the waste does not contain any radionuclides listed in either Table I or II, it is Class A.

g) Determination of concentrations in wastes. The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as becquerel (nanocurie) per gram.

h) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 1.85 TBq/m³ (50 Ci/m³) and Cs-137 in a concentration of 814 GBq/m³ (22 Ci/m³). Since the concentrations both exceed the values in Column 1, Table II, they must be compared to Column 2 values. For Sr-90 fraction, 50/150 = 0.33; for Cs-137 fraction, 22/44 = 0.5; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

II. Radioactive Waste Characteristics

a) The following are minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site.

1) Wastes shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. Where the conditions of the site license are more restrictive than the provisions of this chapter, the site license conditions shall govern.

2) Wastes shall not be packaged for disposal in cardboard or fiberboard boxes.

3) Liquid waste shall be packaged in sufficient absorbent material to absorb twice the volume of the liquid.

4) Solid waste containing liquid shall contain as little freestanding and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume.

5) Waste shall not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

6) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with Section II.(a)(8).

7) Waste must not be pyrophoric. Pyrophoric materials contained in wastes shall be treated, prepared, and packaged to be nonflammable.⁴

8) Wastes in a gaseous form shall be packaged at an absolute pressure that does not exceed 1.5 atmospheres at 20°C. Total activity shall not exceed 100 Ci (3.7 TBq) per container.

⁴See 641—38.2 of these rules for the definition of pyrophoric.

9) Wastes containing hazardous, biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard from the nonradiological materials.

b) The following requirements are intended to provide stability of the waste. Stability is intended to ensure that the waste does not degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

1) Waste shall have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself,

processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

2) Notwithstanding the provisions in Section II.(a)(3) and (4), liquid wastes, or wastes containing liquid, shall be converted into a form that contains as little freestanding and noncorrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

3) Void spaces within the waste and between the waste and its package shall be reduced to the extent practicable.

III. Labeling

Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

CHAPTER 40

APPENDIX F

QUANTITIES FOR USE WITH DECOMMISSIONING

<u>Material</u>	<u>Microcurie*</u>
Americium-241	0.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100

<u>Material</u>	<u>Microcurie*</u>
Erbium-169	100
Erbium-171	100
Europium-152 (9.2 h)	100
Europium-152 (13 yr)	1
Europium-154	1
Europium-155	10
Florine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100

<u>Material</u>	<u>Microcurie*</u>
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	0.01
Polonium-210	0.1
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226	0.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10

<u>Material</u>	<u>Microcurie*</u>
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-110m	1
Silver-111	100
Sodium-22	1
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulfur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural)**	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10

<u>Material</u>	<u>Microcurie*</u>
Tungsten-185	10
Tungsten-187	100
Uranium (natural)**	100
Uranium-233	0.01
Uranium-234	0.01
Uranium-235	0.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.01
Any radionuclide other than alpha-emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition	0.1

*To convert μCi to kBq, multiply the μCi value by 37.

**Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: This Appendix is retained for use by those Agreement States that need to adopt decommissioning regulations compatible with the U.S. Nuclear Regulatory Commission.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1"—that is, unity.

CHAPTER 40

APPENDIX G

RADIONUCLIDES OF CONCERN
Rescinded **ARC 1479C**, IAB 6/11/14, effective 7/16/14

APPENDIX H

NATIONALLY TRACKED SOURCE THRESHOLDS

The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16.0
Americium-241/Be	60	1,600	0.6	16.0
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14.0
Cesium-137	100	2,700	1.0	27.0
Gadolinium-153	1,000	27,000	10.0	270.0
Iridium-192	80	2,200	0.8	22.0
Plutonium-238	60	1,600	0.6	16.0
Plutonium-239/Be	60	1,600	0.6	16.0
Polonium-210	60	1,600	0.6	16.0
Promethium-147	40,000	1,100,000	400.0	11,000.0
Radium-226	40	1,100	0.4	11.0
Selenium-75	200	5,400	2.0	54.0
Strontium-90	1,000	27,000	10.0	270.0
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200.0	5,400.0
Ytterbium-169	300	8,100	3.0	81.0

These rules are intended to implement Iowa Code chapter 136C.

- [Filed 4/7/80, Notice 2/6/80—published 4/30/80, effective 7/1/80]
- [Filed 5/17/85, Notice 2/27/85—published 6/5/85, effective, see rule 40.24]
- [Filed 11/24/86, Notice 10/8/86—published 12/17/86, effective 1/21/87]
- [Filed 11/6/87, Notice 9/23/87—published 12/2/87, effective 1/6/88]
- [Filed 5/10/91, Notice 4/3/91—published 5/29/91, effective 8/28/91]
- [Filed 7/16/92, Notice 5/27/92—published 8/5/92, effective 9/9/92]
- [Filed 11/5/92, Notice 9/30/92—published 11/25/92, effective 1/13/93]
- [Filed 9/17/93, Notice 8/4/93—published 10/13/93, effective 1/1/94]
- [Filed 7/14/94, Notice 6/8/94—published 8/3/94, effective 9/7/94]
- [Filed 5/15/95, Notice 3/29/95—published 6/7/95, effective 7/12/95]
- [Filed 9/16/96, Notice 7/17/96—published 10/9/96, effective 11/16/96]

[Filed 5/16/97, Notice 4/9/97—published 6/4/97, effective 7/9/97]
[Filed 3/18/98, Notice 1/14/98—published 4/8/98, effective 7/1/98]
[Filed 4/2/99, Notice 1/13/99—published 4/21/99, effective 7/1/99]
[Filed 3/15/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]
[Filed 3/16/01, Notice 2/7/01—published 4/4/01, effective 5/9/01]
[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 11/15/02, Notice 10/2/02—published 12/11/02, effective 1/15/03]
[Filed 3/14/03, Notice 2/5/03—published 4/2/03, effective 5/7/03]
[Filed 3/12/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
[Filed 3/11/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]
[Filed 3/9/06, Notice 2/1/06—published 3/29/06, effective 5/3/06]
[Filed 3/16/07, Notice 1/31/07—published 4/11/07, effective 5/16/07]
[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]
[Filed ARC 8982B (Notice ARC 8762B, IAB 5/19/10), IAB 8/11/10, effective 9/15/10]
[Filed ARC 1479C (Notice ARC 1414C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 61
STATE MECHANICAL CODE

641—61.1(105) Definitions. The following definitions apply to this chapter:

“Ambulatory health care facility” means a facility or portion thereof used to provide services or treatment that provides, on an outpatient basis, treatment for one or more patients that renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance of others; or provides, on an outpatient basis, anesthesia that renders the patient incapable of taking action for self-preservation under emergency conditions without the assistance of others.

“Hospice” means a facility licensed or seeking licensure pursuant to Iowa Code section 135J.2.

“Hospital” means a facility licensed or seeking licensure pursuant to Iowa Code chapter 135B.

“Intermediate care facility for persons with an intellectual disability” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.2(3)“c.”

“Life Safety Code” means the 2000 edition of the Life Safety Code of the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, or the most recent version of the Life Safety Code adopted by reference by the federal Centers for Medicare and Medicaid Services.

“Nursing facility” means a facility licensed or seeking licensure pursuant to Iowa Code section 135C.6, including a nursing facility for intermediate care or a nursing facility for skilled care.

[ARC 1494C, IAB 6/11/14, effective 7/16/14]

641—61.2(105) Adoption by reference. The provisions of the International Mechanical Code, 2012 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

61.2(1) Delete section 101.1.

61.2(2) In section 101.2, delete the phrase “International Fuel Gas Code” and insert in lieu thereof “NFPA 54, National Fuel Gas Code, 2012 edition; NFPA 58, Liquefied Petroleum Gas Code, 2011 edition; and the state plumbing code.”

61.2(3) Delete sections 103, 104, 105, 106, 107, 108, 109, and 110 and sections therein.

61.2(4) Delete section 401.1 and insert in lieu thereof the following new section:

401.1 Scope. This chapter shall govern the ventilation of spaces within a building intended to be occupied. These buildings shall meet either the requirements of ASHRAE Standard 62.1, “Ventilation for Acceptable Indoor Air Quality,” 2010 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; slab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

61.2(5) Add the following footnote “i” related to the gym, stadium, arena (play area) category of the sports and amusement occupancy classification in Table 403.3, Minimum Ventilation Rates:

i. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

61.2(6) Delete appendices A and B.

61.2(7) Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

[ARC 1494C, IAB 6/11/14, effective 7/16/14]

641—61.3(105) Hospitals and health care facilities.

61.3(1) A hospital that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the hospital is in compliance with the provisions of rule 661—205.5(100). In any other case in which an applicable

requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the hospital shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.3(2) A nursing facility or hospice that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the nursing facility or hospice is in compliance with the provisions of rule 661—205.10(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the nursing facility or hospice shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.3(3) An intermediate care facility for persons with an intellectual disability or intermediate care facility for persons with mental illness that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the intermediate care facility is in compliance with the provisions of rule 661—205.15(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the intermediate care facility shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.3(4) An ambulatory health care facility that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the fire safety requirements of the state mechanical code if the ambulatory health care facility is in compliance with the provisions of rule 661—205.20(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the ambulatory health care facility shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

61.3(5) A religious nonmedical health care institution that is required to meet the provisions of the state mechanical code shall be deemed to be in compliance with the provisions of the state mechanical code if the institution is in compliance with the provisions of rule 661—205.25(100). In any other case in which an applicable requirement of the Life Safety Code is inconsistent with an applicable requirement of the state mechanical code, the religious nonmedical health care institution shall be deemed to be in compliance with the state mechanical code requirement if the Life Safety Code requirement is met.

[ARC 1494C, IAB 6/11/14, effective 7/16/14]

641—61.4(105) Enforcement. Any state or local jurisdiction retaining authority to perform inspections of mechanical installations in the state of Iowa shall retain initial interpretive authority over the state mechanical code and may implement an appeals process with respect to such interpretation. Ultimate appeal of any initial interpretation may be made to the plumbing and mechanical systems board by the filing of a petition for declaratory order pursuant to rule 641—57.1(17A) or the filing of a petition for waiver pursuant to 641—Chapter 31.

[ARC 1494C, IAB 6/11/14, effective 7/16/14]

These rules are intended to implement Iowa Code section 105.4.

[Filed ARC 1494C (Notice ARC 1364C, IAB 3/5/14), IAB 6/11/14, effective 7/16/14]

CHAPTERS 62 to 66
Reserved

CHAPTER 101
DEATH CERTIFICATION, AUTOPSY AND DISINTERMENT
[Prior to 7/29/87, Health Department[470] Ch 101]

Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 101 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 102
CORRECTION AND AMENDMENT OF VITAL RECORDS
[Prior to 7/29/87, Health Department[470] Ch 102]

Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 102 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 103
CONFIDENTIALITY OF RECORDS
[Prior to 7/29/87, Health Department[470] Ch 103]

Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 103 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 104
COPIES OF VITAL RECORDS
[Prior to 7/29/87, Health Department[470] Ch 104]

Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 104 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 105
DECLARATION OF PATERNITY REGISTRY
Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 105 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 106
REPORTING OF TERMINATION OF PREGNANCY
Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 106 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 107
MUTUAL CONSENT VOLUNTARY ADOPTION REGISTRY
Rescinded **ARC 0483C**, IAB 12/12/12, effective 1/16/13

January 16, 2013, effective date of the rescission of Chapter 107 [ARC 0483C] delayed until adjournment of the 2013 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2013; delay lifted at the meeting held March 8, 2013.

CHAPTER 108
MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM

641—108.1(135) Scope and purpose. The medical residency training state matching grants program is established to provide greater access to health care by increasing the number of practicing physicians in Iowa through the expansion of residency positions in Iowa. The department shall provide funding to sponsors of accredited graduate medical education residency programs for the establishment, expansion, or support of medical residency training programs that will increase the number of residents trained. Funding for the program may be provided through the health care workforce shortage fund, medical residency training account, and is specifically dedicated to the medical residency training state matching grants program as established in Iowa Code section 135.176. These rules shall be implemented only to the extent funding is available.

[ARC 1480C, IAB 6/11/14, effective 7/16/14]

641—108.2(135) Definitions. For the purposes of these rules, the following definitions shall apply:

“Accredited medical residency training program” means a graduate medical education program approved by the Accreditation Council for Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA).

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Health professional shortage areas” means federal designations that are based on general health professional shortage area (HPSA) designation criteria, plus additional criteria and guidelines specific to each of the three types of designations from the Health Resources and Services Administration Federal Office of Shortage Designations. The three types of designations include primary care, dental and mental health.

“In excess of the federal residency cap” means a residency position for which no federal Medicare funding is available because the residency position is a position beyond the cap for residency positions established by the federal Balanced Budget Act of 1997, Pub. L. No. 105-33.

“New or alternative campus accredited medical residency training program” means a program that is accredited by a recognized entity approved for such purpose by the ACGME or the AOA with the exception that a new medical residency training program that, by reason of an insufficient period of operation is not eligible for accreditation on or before the date of submission of an application for a grant, may be deemed accredited if the ACGME or the AOA finds, after consultation with the appropriate accreditation entity, that there is reasonable assurance that the program will meet the accreditation standards of the entity prior to the date of graduation of the initial class in the program.

“Sponsor” means a hospital, school, or consortium located in Iowa that sponsors and maintains primary organizational and financial responsibility for a graduate medical education residency program in Iowa and is accountable to the accrediting body.

[ARC 1480C, IAB 6/11/14, effective 7/16/14]

641—108.3(135) Eligibility criteria. To be eligible for a matching grant, a sponsor shall satisfy the following requirements and qualifications:

108.3(1) A sponsor shall be financially and organizationally responsible for a residency training program that is accredited by the ACGME or by the AOA.

108.3(2) A sponsor shall establish a dedicated fund to support a residency program. A sponsor funding residency positions in excess of the federal residency cap exclusive of funds provided under this program is deemed to have satisfied this requirement and shall be eligible for a matching grant equal to the amount of funds expended for such residency positions, subject to the limitation on the maximum award of grant funds specified in rule 641—108.4(135).

108.3(3) A sponsor shall demonstrate through documented financial information that funds have been reserved and will be expended by the sponsor in the amount required to provide matching funds for each residency in the request for proposal for state matching funds. A sponsor shall document this requirement by providing with its request for proposal a signed, notarized statement of the organization’s

chief financial officer that such a fund exists, as well as what amounts of moneys have been set aside in this fund for purposes of supporting residency programs.

108.3(4) A sponsor shall demonstrate a need for such residency program in the state by providing with its request for proposal objective evidence of such need including:

- a. Workforce data, including state and federal workforce data and data from tracking databases;
- b. Population data, including community health needs assessments;
- c. Supply and demand data, including health professional shortage area designations; and
- d. Other related research including unique community- or state-level factors which establish a need for such residency program.

108.3(5) A sponsor shall submit with its request for proposal a recruitment and retention plan to encourage residents to enter practice in Iowa with a preference for health professional shortage areas and to demonstrate over time the impact on Iowa's workforce.

[ARC 1480C, IAB 6/11/14, effective 7/16/14]

641—108.4(135) Amount of grant.

108.4(1) The department shall award funds based upon the funds set aside in the special fund, as identified in subrule 108.3(3).

108.4(2) The total amount of a grant awarded to a sponsor shall be limited to no more than 25 percent of the amount of funds the sponsor demonstrates through documented financial information have been reserved and will be expended by the sponsor for each residency sponsored for the purpose of the residency program.

108.4(3) A sponsor, if awarded, shall enter into a contract with the department over a three-year project period to include one year (12 months) renewable contract periods. Annual contracts shall include annual budgets and, upon approval of annual performance measures, renewal applications for the project period. Annual contract periods shall be renewed based on the availability of funds.

108.4(4) A sponsor shall receive funds based on budgeted expenses that include but are not limited to:

- a. Stipends and fringe benefits for residents and fellows;
- b. The portion of teaching physician salaries and fringe benefits associated with teaching and supervision of residents and fellows;
- c. Other direct costs that can be attributed to medical education (e.g., clerical salaries, telephone, office supplies).

108.4(5) An individual sponsor shall not receive more than 25 percent of the state matching funds available each year to support the program. However, if less than 95 percent of the available funds have been awarded in a given year, a sponsor may receive more than 25 percent of the state matching funds available if total funds awarded do not exceed 95 percent of the available funds. If more than one sponsor meets the requirements of this rule and has established, expanded, or supported a graduate medical residency training program in excess of the sponsor's 25 percent maximum share of state matching funds, the state matching funds shall be divided proportionately among such sponsors.

[ARC 1480C, IAB 6/11/14, effective 7/16/14]

641—108.5(135) Review process.

108.5(1) The department shall follow requirements for competitive selection contained in 641—Chapter 176 in awarding these funds.

108.5(2) The department shall establish a request for proposal process for sponsors eligible to receive funding. The request for proposal and review process and review criteria for preference in awarding the grants shall be described in the request for proposal, including preference in the residency specialty. This preference may be reflective of a subspecialty where particular demands for services have been demonstrated, of geographic areas of preference, or of other particular preferences that advance the objectives of the program.

108.5(3) Each request for proposal issued by the department will identify one or more of the following purposes for use of the funding:

- a.* The establishment of new or alternative campus accredited medical residency training programs;
- b.* The provision of new residency positions within existing accredited medical residency or fellowship training programs; or
- c.* The funding of residency positions which are in excess of the federal residency cap.

108.5(4) An applicant may appeal the denial of a properly submitted request for proposal. Appeals shall be governed by rule 641—176.8(135,17A).
[ARC 1480C, IAB 6/11/14, effective 7/16/14]

These rules are intended to implement Iowa Code section 135.176.

[Filed ARC 1480C (Notice ARC 1392C, IAB 4/2/14), IAB 6/11/14, effective 7/16/14]

CHAPTER 71
ASSESSMENT PRACTICES AND EQUALIZATION
[Prior to 12/17/86, Revenue Department[730]]

701—71.1(405,427A,428,441,499B) Classification of real estate.

71.1(1) Responsibility of assessors. All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property. An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building (dual classification). A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(8) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

71.1(2) Responsibility of boards of review, county auditors, and county treasurers. Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall classify property as provided in this rule and adhere to the requirements of this rule.

71.1(3) Agricultural real estate.

a. Generally. Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph “a” or “b” of this subrule.

b. Vineyards. Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

c. Algae cultivation and production. Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) Determining direct usage. To determine if real estate is used “directly” in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be “directly” so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also “directly” used in production. Even if the real estate is used for activities that are essential or necessary

to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.
2. Real estate that is used in the management, administration, advertising, or selling of algae.
3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.
4. Real estate that is used for packaging of the algae which has been produced and cultivated.

71.1(4) Residential real estate. Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation, including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

71.1(5) Commercial real estate. Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, rest homes, structures consisting of three or more separate living quarters and any other buildings for human habitation that are used as a commercial venture. Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1) "j," except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

71.1(6) Industrial real estate.

a. *Land and buildings.*

(1) Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. A manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any process of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling the product for gain or profit. Industrial real estate includes land and buildings used for the storage of raw

materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing establishment.

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in subparagraph 71.1(6)“a”(1). Property in which the performance of these activities is only incidental to the property’s primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the industrial activity, i.e., baking, is only incidental to the store premises’ primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises’ primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo*, 230 Iowa 750, 298 N.W. 654 (1941).

Similarly, a facility which has as its primary use the mixing and blending of products to manufacture feed would be assessed as industrial real estate even though a portion of the facility is used solely for the storage of grain, if the use for storage is merely incidental to the property’s primary use as a manufacturing establishment. Conversely, a facility used primarily for the storage of grain would be assessed as commercial real estate even though a part of the facility is used to manufacture feed. In the latter situation, the industrial use of the property — the manufacture of feed — is merely incidental to the property’s primary use for commercial purposes — the storage of grain.

(3) Property used primarily for the extraction of rock or mineral substances from the earth is not a manufacturing establishment if the only processing performed on the substance is to change its size by crushing or pulverizing. See *River Products Company v. Board of Review of Washington County*, 332 N.W.2d 116 (Iowa Ct. App. 1982).

b. Machinery.

(1) Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

(2) Machinery owned or used by a manufacturer but not used within the manufacturing establishment is not assessed as industrial real estate. For example, “X” operates a factory which manufactures building materials for sale. In addition, “X” uses some of these building materials in construction contracts. The machinery which “X” would primarily use at the construction site would not be used in a manufacturing establishment and, therefore, would not be assessed as industrial real estate.

(3) Machinery used in manufacturing but not used in or by a manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

(4) Where the primary function of a manufacturing establishment is to manufacture personal property that is consumed by the manufacturer rather than sold, the machinery used in the manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

71.1(7) Point-of-sale equipment. As used in Iowa Code section 427A.1(1)“j,” the term “point-of-sale equipment” means input, output, and processing equipment used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and which is located at the counter, desk, or other specific point at which the transaction occurs. As used in this subrule, the term “sale” means the sale or rental of goods or services and includes both retail and wholesale transactions. Point-of-sale equipment does not include equipment used primarily for depositing or withdrawing funds from financial institution accounts.

71.1(8) Housing development property.

a. Ordinances adopted or amended on or after January 1, 2011.

(1) Adoption of ordinance by board of supervisors. A county board of supervisors may adopt an ordinance providing that property acquired and subdivided for development of housing on or after January 1, 2011, shall continue to be assessed for taxation in the manner it was assessed prior to the

acquisition. Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing or 5 years from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted or otherwise made effective under 2011 Iowa Code Supplement section 405.1(1) "a" to extend the 5-year time period for a period of time not to exceed 5 years beyond the end of the original 5-year period established under 2011 Iowa Code Supplement section 405.1(1). Thus, the maximum special assessment time for ordinances adopted on or subsequent to January 1, 2011, is 10 years. An extension of an ordinance under 2011 Iowa Code Supplement section 405.1(1) "a" may apply to all or a portion of the property that was subject to the original ordinance.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) "a," extending the county ordinance not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or subsequent to January 1, 2011, is 10 years if the city council amends an ordinance originally adopted by the county board of supervisors.

(4) Sale of lot; expiration of 5-year or extended period. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 5-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

(5) Definition of "subdivide." As used in both paragraphs 71.1(8) "a" and "b," "subdivide" means to divide a tract of land into three or more lots.

b. Ordinances adopted on or after January 1, 2004, but prior to January 1, 2011.

(1) Ordinances adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), to the extent such ordinances affect the assessment of property subdivided for development of housing on or after January 1, 2004, but before January 1, 2011, shall remain in effect or otherwise be made effective, and such ordinances:

1. Adopted under 2011 Iowa Code Supplement section 405.1(1), applicable to counties with a population of less than 20,000, shall be extended, from a period of 5 years, to apply to a period of 10 years from the date of subdivision.

2. Adopted under 2011 Iowa Code Supplement section 405.1(2), applicable to counties with a population of 20,000 or more, shall be extended, from a period of 3 years, to apply to a period of 8 years from the date of subdivision.

Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing, or 10 years pursuant to paragraph "1" above or 8 years pursuant to paragraph "2" above (or the extended period, if applicable) from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) or 405.1(2) to extend the 10- and 8-year periods, respectively, for a period of time not to exceed 5 years beyond the end of the 10- and 8-year periods established under 2011 Iowa Code Supplement section 405.1(1) "b." Thus, the maximum special assessment time for ordinances adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years. For counties with a population of 20,000 or more, the maximum shall be 13 years.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), extending the county ordinances not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or after January 1, 2004, but prior to January 1, 2011, for counties

with a population of less than 20,000 shall be 15 years if the city council amends an ordinance originally adopted by the board of supervisors. For counties with a population of 20,000 or more, the maximum special assessment time shall be 13 years.

(4) Sale of lot. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 10- or 8-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

71.1(9) Assessment of platted lots.

a. When a subdivision plat is recorded pursuant to Iowa Code chapter 354 on or after January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 5 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

b. For subdivision plats recorded pursuant to Iowa Code chapter 354 (relating to division and subdivision of land) on or after January 1, 2004, but before January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 8 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

c. 2011 Iowa Code Supplement section 441.72 does not apply to special assessment levies.

This rule is intended to implement Iowa Code sections 405.1, 427A.1, 428.4 and 441.22 and chapter 499B and Iowa Code Supplement section 441.21 as amended by 2002 Iowa Acts, House File 2584.

[ARC 8559B, IAB 3/10/10, effective 4/14/10; ARC 0400C, IAB 10/17/12, effective 11/21/12; ARC 1196C, IAB 11/27/13, effective 1/1/14]

701—71.2(421,428,441) Assessment and valuation of real estate.

71.2(1) Responsibility of assessor. The valuation of real estate as established by city and county assessors shall be the actual value of the real estate as of January 1 of the year in which the assessment is made. New parcels of real estate created by the division of existing parcels of real estate shall be assessed separately as of January 1 of the year following the division of the existing parcel of real estate.

71.2(2) Responsibility of other assessing officials. Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall follow the provisions of subrule 71.2(1) and rules 701—71.3(421,428,441) to 701—71.7(421,427A,428,441).

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(18).

71.3(1) Productivity.

a. In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and distribute such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

b. In distributing such valuation to each parcel under paragraph 71.3(1)“a,” the assessor shall adjust non-cropland. The adjustment shall be applied to non-cropland with a corn suitability rating (CSR) that is greater than 50 percent of the average CSR for cropland for the county. The adjustment shall be determined for each county based upon the five-year average difference in cash rent between

non-irrigated cropland and pasture land as published by NASS. The assessor may utilize the USDA FSA-published Common Land Unit digital data or other reliable sources in determining non-cropland. Counties shall implement the adjustments under this paragraph on or before the 2017 assessment year. The department of revenue may, in a case involving hardship, extend the implementation of the adjustments required under this paragraph to the 2019 assessment year. No extension of time shall be granted unless the county makes a written request to the department of revenue for such action.

c. A taxpayer may apply to the county for the adjustment to non-cropland under paragraph 71.3(1) “*b*” beginning with the 2014 assessment and until the county’s full implementation of this subrule. Upon application, and subsequent approval by the assessor, the county assessor shall adjust non-cropland as provided in paragraph 71.3(1) “*b*.” Once a taxpayer applies for the adjustment, and upon approval, the assessor shall make the adjustment to the assessment year for which the application was submitted and until the county’s full implementation of this subrule, without the need to reapply for the adjustment.

d. EXAMPLE. The following is an example of the calculation used to compute adjustment on land determined to be non-cropland with a CSR that is greater than 50 percent of the average CSR for cropland for the county:

Average county CSR rating for cropland	80 CSR
50% of average cropland CSR	40 CSR
Example of non-cropland soil 11b CSR rating	58 CSR
Non-cropland CSR points to be adjusted	$58 - 40 = 18$ CSR points
5-year average rent for non-irrigated cropland	\$163.60
5-year average rent for pasture land	\$48.30
Percent difference (rounded)	$1 - (\$48.30/\$163.60) = 70\%$
Apply the percent difference to points to be adjusted	$18 \text{ CSR points} \times (1 - .70) = 5.40$ adjusted CSR points
Adjusted CSR non-cropland	$40 + 5.40 = 45.40$ adjusted CSR points

71.3(2) Agricultural factor. In order to determine a productivity value for agricultural buildings and structures, assessors must make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for the assessors’ jurisdictions. The agricultural factor for each jurisdiction is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building’s actual value is \$500,000 and the agricultural factor is 30 percent, the productivity value of that building is \$150,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

71.3(3) Classification. Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[ARC 8542B, IAB 2/24/10, effective 3/31/10; ARC 9478B, IAB 4/20/11, effective 5/25/11; ARC 0770C, IAB 5/29/13, effective 7/3/13]

701—71.4(421,428,441) Valuation of residential real estate. Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

71.5(1) Property of long distance telephone companies. The director of revenue shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.

71.5(2) Low-income housing subject to Section 42 of the Internal Revenue Code.

a. Productive and earning capacity. In assessing property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code which limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.

b. Direct capitalization method. The income approach to valuation shall be applied using the direct capitalization method. The assessor may use the discounted cash flow method as a test of the reasonableness of the results produced by the direct capitalization method. The direct capitalization method of the income approach involves dividing the Net Operating Income (NOI) on a cash basis by an overall capitalization rate to derive an indication of the value of the property for the assessment year.

In applying the direct capitalization method, the assessor shall develop a normalized measure of annual NOI based on the productive and earning capacity of the development utilizing (1) the actual rent schedule applicable for each of the available units as of January 1 of the year of assessment indicating the actual rent to be paid by the resident plus any Section 8 rental assistance or other direct cash rental subsidy provided to the resident by federal, state or local rent subsidy programs as limited pursuant to Section 42 of the Internal Revenue Code, (2) a normal vacancy/collection allowance, (3) the prior year's actual and current year's projected annual operating expenses associated with the property, excluding noncash items such as depreciation and amortization, but including property taxes and those actual costs expected to be incurred and paid as required by Internal Revenue Code Section 42 regulations, provisions, and restrictions as applicable to the assessment year, and (4) an appropriate provision for replacement reserves.

If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data must be itemized. For properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statements variously named as the Income and Loss Statement, the Profit and Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to provide the basis for determining the normalized NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of Section 42 regulation or compliance changes for the assessment year are included as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year. The assessor, in developing the measure of annual NOI on a cash basis, shall not consider as income any potential rental income differential that could otherwise be received from the property if the rents were not limited pursuant to Section 42 of the Internal Revenue Code, any tax credit equity, any tax credit value, or other subsidized financing.

c. Filing of reports. It shall be the responsibility of the property owner to file income and expense data with the local assessor by March 1 of each year. The assessor may require the filing of additional information if deemed necessary.

d. Capitalization rate. The overall capitalization rate to be used in applying the direct capitalization method for a Section 42 property is developed through the band-of-investment technique. The capitalization rate will be calculated annually by the Iowa department of revenue and distributed to all Iowa assessors by March 1. The capitalization rate is a composite rate weighted by the proportions of total property investment represented by debt and equity. The capital structure weights equity at 80 percent and debt at 20 percent unless actual market capital structure can be verified to the assessor. The yield, or market rate of return, for equity is calculated using the capital asset pricing model (CAPM). The yield for debt is equivalent to the average yield on 25-year Treasury bonds referred to as the Treasury long-term average rate. An example of the band-of-investment technique to be utilized is as follows:

	% to Total	Yield	Composite
Equity	80%	11.05%	8.84%
Debt	20%	5.94%	1.19%
	100%		10.03%

e. Capital asset pricing model. The capital asset pricing model (CAPM) is utilized to develop the equity rate. The formula is:

$$R_e = B(R_m - R_f) + R_f$$

Where:

- R_e = return on equity
- B = beta
- R_m = return on the market
- R_f = risk-free rate of return
- $R_m - R_f$ = market-risk premium

The beta is assumed to be 1 which indicates the risk level to be consistent with the market as a whole. The risk-free rate is calculated by finding the average of the three-month and six-month Treasury bill. The return on the market is calculated by taking the average of the return on the market for the Merrill Lynch Universe and Standard and Poor's 500 or by reference to other published secondary sources.

f. Properties under construction. For Section 42 properties under construction, the assessor may value the property by applying the percentage of completion to the replacement cost new (RCN) as calculated from the Iowa Real Property Appraisal Manual and adding the fair market value of the land. Alternatively, projected income and expense data may be utilized if available.

g. Negative or minimal NOI. If the Section 42 property shows a negative or minimal net operating income (NOI), the indicator of value as set forth in these rules shall not be utilized.

h. Eligibility withdrawn. The property owner shall notify the assessor when property is withdrawn from Section 42 eligibility under the Internal Revenue Code. The notification must be provided by March 1 of the assessment year or the owner is subject to a penalty of \$500.

This rule is intended to implement Iowa Code sections 421.17, 428.4, 441.21 as amended by 2004 Iowa Acts, Senate File 2296, and 476.1D(10).

701—71.6(421,428,441) Valuation of industrial land and buildings. Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code subsection 421.17(18), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

701—71.7(421,427A,428,441) Valuation of industrial machinery. Industrial machinery as referred to in Iowa Code section 427A.1(1) “e” shall include all machinery used in manufacturing establishments and shall be assessed as real estate even though such machinery might be assessed as personal property if not used in a manufacturing establishment.

In determining the actual value of industrial machinery assessed as real estate, the assessor shall give consideration to the “Industrial Machinery and Equipment Valuation Guide” issued by the department of revenue and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 427A.1, 428.4 and 441.21.

701—71.8(428,441) Abstract of assessment. Each city and county assessor shall submit annually to the director of revenue at the times specified in Iowa Code section 441.45 an abstract of assessment for the current year. The assessor shall use the form of abstract prescribed and furnished by the department of revenue, and shall enter on the abstract all information required by the department. However, the department may approve the use of a computer-prepared abstract if the data is essentially the same format as on the form prescribed by the department. The information entered on the abstract of assessment shall be reviewed and considered by the director of revenue in equalizing the valuations of classes of properties.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

701—71.9(428,441) Reconciliation report. The assessor’s report of any revaluation required by Iowa Code section 428.4 shall be made on the reconciliation report prescribed and furnished by the department of revenue. The assessor shall enter on the report all information required by the department. The reconciliation report shall be a part of the abstract of assessment required by Iowa Code section 441.45 and shall be reviewed and considered by the director in equalizing valuations of classes of property.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

701—71.10(421) Assessment/sales ratio study.

71.10(1) Basic data. Basic data shall be that submitted to the department of revenue by county recorders and city and county assessors on forms prescribed and provided by the department, information furnished by parties to real estate transactions, and information obtained by field investigations made by the department of revenue.

71.10(2) Responsibility of recorders and assessors. County recorders and city and county assessors shall complete the prescribed forms as required by Iowa Code subsection 421.17(6) and rule 701—79.3(428A) in accordance with instructions issued by the department. Assessed values entered on the prescribed form shall be those established as of January 1 of the year in which the sale takes place.

71.10(3) Normal sales. All real estate transfers shall be considered by the department of revenue to be normal sales unless there exists definite information which would indicate the transfer was not an arms-length transaction or is of an excludable nature as provided in Iowa Code section 441.21.

This rule is intended to implement Iowa Code section 421.17.

701—71.11(441) Equalization of assessments by class of property. Commencing in 1977 and every two years thereafter, the director of revenue shall order the equalization of the levels of assessment of each class of property as provided in rule 701—71.12(441) by adding to or deducting from the valuation of each class of property, as reported to the department on the abstract of assessment and reconciliation report which is a part of the abstract, the percentage in each case as may be necessary to bring the level of assessment to its actual value as defined in Iowa Code section 441.21. Valuation adjustments shall be ordered if the director determines that the aggregate valuation of a class of property as reported on the abstract of assessment submitted by the assessor is at least 5 percent above or below the aggregate

valuation for that class of property as determined by the director pursuant to rule 701—71.12(441). Equalization orders of the director shall be restricted to equalizing the aggregate valuations of entire classes of property among the several assessing jurisdictions. All classifications of real estate shall be applied uniformly throughout the state of Iowa.

Equalization percentage adjustments determined for residential realty located outside incorporated areas and not located on agricultural land shall apply to buildings located on agricultural land outside incorporated areas, which are primarily used or intended for human habitation, as defined in subrule 71.1(4).

Equalization percentage adjustments determined for residential realty located within incorporated cities and not located on agricultural land shall apply to buildings located on agricultural land within incorporated cities which are primarily used or intended for human habitation as defined in subrule 71.1(4).

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

701—71.12(441) Determination of aggregate actual values.

71.12(1) Agricultural real estate.

a. *Use of income capitalization study.* The equalized valuation of agricultural realty shall be based upon its productivity and net earning capacity and shall be determined in accordance with the provisions of this subrule. Data used shall pertain to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized. The equalized valuation of agricultural realty shall be determined for each county as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service.

1. Total acres in farms: Total acreage used for agricultural purposes.
2. Corn acres: Sum of corn acres harvested including silage, popcorn and acres planted for sorghum.
3. Oats and wheat acres: Sum of oats and wheat acres harvested.
4. Soybean acres: Soybean acres harvested.
5. Hay acres: All hay acres harvested.
6. Pasture acres: All pasture acres. Total pasture acres shall be determined by multiplying the total acres in farms reported by the USDA National Agricultural Statistics Service by the percentage which total pasture land as reported in the most recent U.S. Census of Agriculture bears to the total acreage in farmland also reported in the most recent U.S. Census of Agriculture. The amount of tillable and nontillable pasture acres shall be determined as follows:

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in “2” above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service.

1. Corn yield (including silage): Number of bushels of corn harvested for grain per acre.

2. Oat yield (including wheat): Number of bushels of oats harvested per acre.

3. Soybean yield: Number of bushels per acre harvested.

4. Hay yield in tons: Number of tons per acre harvested.

(3) Computation of county gross income.

1. Corn: One-half of the 5-year average production multiplied by the 5-year average price received for corn.

2. Silage: One-half of the 5-year average number of acres devoted to the production of silage multiplied by the 5-year average production per acre for corn. The amount of production so determined shall be added to the 5-year average production for corn and included in the determination of the gross income for corn.

3. Soybeans: One-half of the 5-year average production multiplied by the 5-year average price received.

4. Oats: One-half of the 5-year average production of oats and wheat multiplied by the 5-year average price received for oats.

5. Price adjustment: For corn, soybeans, hay, and oats, the prices used shall be as obtained from the USDA National Agricultural Statistics Service and shall be adjusted to reflect any individual county price conditions prior to the 2007 crop year. For the 2007 crop year and later, the USDA National Agricultural Statistics Service district prices shall be used and shall be adjusted to reflect any individual county price conditions.

6. Government programs: Gross income shall be one-half of the 5-year average amount of cash payments or equivalent (such as PIK bushels) including but not limited to diverted, deficiency and PIK programs as reported by the USDA Farm Service Agency.

7. Hay: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to hay by the product obtained by multiplying one-fourth of the 5-year average hay yield by the 5-year average price received for all types of hay.

8. Tillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to tillable pasture by the product obtained in "hay" above.

9. Nontillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to nontillable pasture by one-half the product obtained in "hay" above.

10. Other acres: Income shall be the product of the number of other acres multiplied by 17 percent of the net income per acre for all other land uses.

(4) Computation of county production costs. The following data and procedures shall be used to determine specific county production costs.

1. Basic average landlord production costs. Landlord production costs for corn, soybeans, oats, diverted acres, hay, tillable pasture, nontillable pasture, fertilizer costs, and facilities' costs shall be obtained for each year from Iowa State University.

2. Production cost adjustment. The production costs for corn, soybeans, oats, and hay are adjusted for each county by multiplying the difference between the 5-year state average yield per acre and the 5-year county average yield per acre by the 5-year average facilities' costs. If a county's yield exceeds the state yield, production costs are increased by this amount. If a county's yield is less than the state yield, production costs are reduced by this amount.

3. Fertilizer cost adjustment. The adjustment for fertilizer costs is determined as follows: Multiply the difference between the 5-year state average corn yield per acre and the 5-year county average corn yield per acre obtained from the USDA National Agricultural Statistics Service by the fertilizer cost amount per bushel determined by dividing the statewide average cost of landlord's share of fertilizer cost per acre from Iowa State University by the statewide average corn yield per acre to produce the corn fertilizer cost per bushel adjustment. This amount is then multiplied by the 5-year county average corn acres determined in (2) above.

4. Expense adjustments. If a county's 5-year average corn yield is greater than the state 5-year average corn yield, this amount is allowed as an additional expense. If the county's average is less than the state average, this amount is an expense reduction.

5. Liability insurance cost adjustment. The 5-year average per acre cost of obtaining tort liability insurance shall be determined.

(5) Computation of county net income. From the total gross income, subtract the total expenses. Divide the resulting total by the total number of acres.

(6) Computation of dwelling adjustment factor. The amount determined in (5) above shall be reduced by 10.6 percent.

(7) Computation of county tax adjustment. Subtract the 5-year average per acre real estate taxes levied for land and structures including drainage and levee district taxes but excluding those levied against agricultural dwellings from the amount determined in (6) above. Taxes shall be the tax levied for collection during the 5-year period as reported by county auditors, and reduced by the amount of the agricultural land tax credit.

(8) Calculation of county valuation per acre. Divide the net income per acre ((7) above) for each county as determined above by the capitalization rate specified in Iowa Code section 441.21. The quotient shall be the actual per acre equalized valuation of agricultural land and structures for the current equalization year.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of agricultural real estate.

c. Determination of value. The aggregate actual value of agricultural real estate in each county shall be determined by multiplying the equalized per acre value by the number of acres of agricultural real estate reported on the abstract of assessment for the current year, adjusted where necessary by the results of any field investigations conducted by the department of revenue and any other relevant data available.

71.12(2) Residential real estate outside and within incorporated cities.

a. Use of assessment/sales ratio study. Basic data shall be that set forth in rule 701—71.10(421) refined by eliminating any sales determined to be abnormal or by adjusting the sales to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of residential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of the sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the

department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue to determine the level of assessment of residential real estate.

c. Equalization appraisal selection procedures for residential real estate. Residential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner:

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser assigned to the jurisdiction shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 1,397 improved residential units. Dividing 1,397 by 10, 139.7 is arrived at, which is rounded down to 139. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 139 is to be selected. The person randomly selected number 20.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 20 and adding the interval number of 139 to it, each resulting number provides the following systematic sequence: 20, 159, 298, 437, 576, 715, 854, 993, 1,132, 1,271.

(2) Number of improved properties.

County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers
Franklin Twp.	57	1-57
Pleasant View	160	58-217
Jackson Twp.	56	218-273
Johnston	300	274-573
Polk Twp.	110	574-683
Washington Twp.	114	684-797
Maryville	306	798-1103
Camden Twp.	110	1104-1213
Salem	184	1214-1397
Total	1,397	

(3) Determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	57	1-57	20	20
Pleasant View	160	58-217	159	102
Jackson Twp.	56	218-273		
Johnston	300	274-573	298,437	25,164
Polk Twp.	110	574-683	576	3
Washington Twp.	114	684-797	715	32
Maryville	306	798-1103	854,993	57,196
Camden Twp.	110	1104-1213	1132	29
Salem	184	1214-1397	1271	58
Total	<u>1,397</u>			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 20. Since the improved residential properties in Franklin Township have been assigned code numbers 1 to 57, sequence number 20 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the twentieth improved residential entry.

Document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

- Current year sale
- Partial assessment
- Prior equalization appraisal
- Tax-exempt
- Value established by court action
- Value is not more than \$10,000
- Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 20 is ineligible, use code number 21 as a substitute. If code number 21 is ineligible, use code number 22, etc., until an eligible property is found.

If the procedure described in 71.12(2)“c”(3)“3” moves the substitute property to another city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(2)“c”(3)“3” even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(2)“c”(3)“2.” Alternate properties are selected by using the same procedure described in 71.12(2)“c”(3)“3.”

5. Follow procedures 71.12(2)“c”(3), items “1” to “4,” for each of the other originally selected sequence numbers.

71.12(3) Commercial real estate.

a. *Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects

of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

b. Use of other relevant data. The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

c. Equalization appraisal selection procedures for commercial real estate. Commercial properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner:

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 397 improved commercial units. Dividing 397 by 10, 39.7 is arrived at, which is rounded down to 39. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 39 is to be selected. The person randomly selected number 2.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 2 and adding the interval number of 39 to it, each resulting number provides the following systematic sequence: 2, 41, 80, 119, 158, 197, 236, 275, 314, 353.

(2) Number of improved properties.

1. City jurisdictions—Utilizing the assessment book or a computer printout which follows the same order as the assessment book, consecutively number all the improved units and document the procedure.

2. County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers
Franklin Twp.	4	1-4
Pleasant View	60	5-64
Jackson Twp.	9	65-73
Johnston	100	74-173
Polk Twp.	10	174-183
Washington Twp.	14	184-197
Maryville	106	198-303
Camden Twp.	10	304-313
Salem	84	314-397
Total	397	

(3) The department appraiser shall determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	4	1-4	2	2
Pleasant View	60	5-64	41	37
Jackson Twp.	9	65-73		
Johnston	100	74-173	80,119,158	7,46,85
Polk Twp.	10	174-183		
Washington Twp.	14	184-197	197	14
Maryville	106	198-303	236,275	39,78
Camden Twp.	10	304-313		
Salem	84	314-397	314,353	1,40
Total	397			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 2. Since the improved commercial properties in Franklin Township have been assigned code numbers 1 to 4, sequence number 2 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the second improved commercial entry.

The department appraiser shall document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Vacant building

Current year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action
 Value is not more than \$5,000
 Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 2 is ineligible, use code number 3 as a substitute. If code number 3 is ineligible, use code number 4, etc., until an eligible property is found.

If the procedure described in 71.12(3)“c”(3)“3” moves the substitute property to a city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(3)“c”(3)“3” even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(3)“c”(3)“2.” Alternate properties are selected by using the same procedure described in 71.12(3)“c”(3)“3.”

5. Follow procedures 71.12(3)“c”(3), items “1” to “4,” for each of the other originally selected sequence numbers.

71.12(4) Industrial real estate. It is not possible to determine the level of assessment of industrial real estate by using accepted equalization methods. The lack of sales data precludes the use of an assessment/sales ratio study, the diverse nature of industrial real estate precludes the use of a countywide or citywide income capitalization study, and the limited number of industrial properties precludes the use of sample appraisals. The level of assessment of industrial real estate can only be determined by the valuation of individual parcels of industrial real estate. Any attempt to equalize industrial valuations by using accepted equalization methods would create an arbitrary result. However, under the circumstances set forth in Iowa Code subsection 421.17(10), the director may correct any errors in such assessments which are brought to the director’s attention.

71.12(5) Personal property. Rescinded IAB 10/25/95, effective 11/29/95.

71.12(6) Centrally assessed property. Property assessed by the director of revenue pursuant to Iowa Code chapters 428 and 433 to 438, inclusive, is equalized internally by the director in the making of the assessments. Further, the assessments are equalized with the aggregate valuations of other classes of property as a result of actions taken by the director of revenue pursuant to rule 701—71.11(441).

71.12(7) Miscellaneous real estate. Since it is not possible to use accepted equalization methods to determine the level of assessment of mineral rights and interstate railroad and toll bridges, these classes of property shall not be subject to equalization by the director of revenue. However, under the circumstances set forth in Iowa Code section 421.17(10), the director may correct any errors in assessments which are brought to the director’s attention.

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.
 [ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 9478B, IAB 4/20/11, effective 5/25/11]

701—71.13(441) Tentative equalization notices. Prior to the issuance of the final equalization order to each county auditor, a tentative equalization notice providing for proposed percentage adjustments to the aggregate valuations of classes of property as set forth in rule 701—71.12(441) shall be mailed to the county auditor whose valuations are proposed to be adjusted. The tentative equalization notice constitutes the ten days’ notice required by Iowa Code section 441.48.

This rule is intended to implement Iowa Code sections 441.47 and 441.48.

701—71.14(441) Hearings before the director.

71.14(1) Protests. Written or oral protest against the proposed percentage adjustments as set forth in the tentative equalization notice issued by the director of revenue shall be made only on behalf of the affected assessing jurisdiction. The protests shall be made only by officials of the assessing jurisdiction, including, but not limited to, an assessing jurisdiction’s city council or board of supervisors, assessor,

or city or county attorney. An assessing jurisdiction may submit a written protest in lieu of making an oral presentation before the director, or may submit an oral protest supported by written documentation. Protests against the adjustments in valuation contained in the tentative equalization notices shall be limited to a statement of the error or errors complained of and shall include such facts as might lead to their correction. No other factors shall be considered by the director in reviewing the protests. Protests and hearings on tentative equalization notices before the director are excluded from the provisions of the Iowa Administrative Procedure Act governing contested case proceedings.

71.14(2) *Conduct of hearing.* The director shall schedule each hearing so as to allow the same amount of time within which each assessing jurisdiction can make its presentation. During the hearing each assessing jurisdiction shall be afforded the opportunity to present evidence relevant to its protest. The director or the director's designated representative shall preside at the hearing which shall be held at the time and place designated by the director or such other time and place as may be mutually agreed upon by the director and the protesting assessing jurisdiction.

This rule is intended to implement Iowa Code section 441.48.

701—71.15(441) Final equalization order. After the tentative equalization notice has been issued and an opportunity for a hearing described in rule 701—71.14(441) has been afforded, the director shall issue a final equalization order by mail to the county auditor. The order shall specify any percentage adjustments in the aggregate valuations of any class of property to be made effective for the county as of January 1 of the year in which the order is issued. The final equalization order shall be issued on or before October 1 unless for good cause it cannot be issued until after October 1. The final equalization order shall be implemented by the county auditor.

An assessing jurisdiction may appeal a final equalization order to the state board of tax review. The protest must be filed or postmarked not later than ten days after the date the final equalization order is issued.

This rule is intended to implement Iowa Code sections 441.48 and 441.49.

701—71.16(441) Alternative method of implementing equalization orders.

71.16(1) *Application for permission to use an alternative method.* A request by an assessing jurisdiction for permission to use an alternative method of applying the final equalization order must be made in writing to the director of revenue within ten days from the date the county auditor receives the final equalization order. The written request shall include the following information:

a. Facts evidencing the need to use an alternative method of implementing the final equalization order. Such facts shall clearly show that the proposed method is essential to ensure compliance with the provisions of Iowa Code section 441.21.

b. The exact methods to be employed in implementing the requested alternative method for each class of property.

c. The specific method of notifying affected property owners of the valuation changes.

d. Evidence that the alternative method will result in an aggregate property class valuation adjustment equivalent to that prescribed in the director's final equalization order.

The director of revenue shall review each written request for an alternative method and shall notify the assessing jurisdiction of acceptance or rejection of the proposed method by October 15. The assessing jurisdiction shall immediately inform the county auditor of the director's decision. The county auditor shall include a description of any approved alternative method in the required newspaper publication of the final equalization order. In those instances where the approved alternative method includes individual property owner notification, the publication shall not be considered proper notice to the affected property owners.

71.16(2) *Implementation of alternative method.* If an alternative method is approved by the director of revenue, any individual notification of property owners shall be completed by the assessor by not later than October 25.

71.16(3) Appeal by property owners. If an alternative method is approved by the director of revenue, the special session of the local board of review to hear equalization protests shall be extended to November 30. In such instances, protests may be filed up to and including November 4.

This rule is intended to implement Iowa Code section 441.49.

701—71.17(441) Special session of boards of review.

71.17(1) Grounds for protest. The only ground for protesting to the local board of review reconvened in special session pursuant to Iowa Code section 441.49 is that the application of the director's final equalization order results in a value greater than that permitted under Iowa Code section 441.21.

71.17(2) Authority of board of review. When in special session to hear protests resulting from equalization adjustments, the local board of review shall only act upon protests for those properties for which valuations have been increased as a result of the application of the director of revenue's final equalization order.

The local board of review may adjust valuations of those properties it deems warranted, but under no circumstance shall the adjustment result in a value less than that which existed prior to the application of the director's equalization order. The local board of review shall not adjust the valuation of properties for which no protests have been filed.

71.17(3) Report of board of review. In the report to the director of revenue of action taken by the local board of review in special session, the board of review shall report the aggregate valuation adjustments by class of property as well as all other information required by the director of revenue to determine if such actions may have substantially altered the equalization order.

71.17(4) Meetings of board of review. If the final equalization order does not increase the valuation of any class of property, the board of review is not required to meet during the special session. If the final equalization order increases the valuation of one or more classes of property but no protests are filed by the times specified in Iowa Code section 441.49, the board of review is not required to meet during the special session.

This rule is intended to implement Iowa Code sections 421.17(10) and 441.49.

701—71.18(441) Judgment of assessors and local boards of review. Nothing stated in these rules should be construed as prohibiting the exercise of honest judgment, as provided by law, by the assessors and local boards of review in matters pertaining to valuing and assessing of individual properties within their respective jurisdictions.

This rule is intended to implement Iowa Code sections 441.17 and 441.35.

701—71.19(441) Conference boards.

71.19(1) Establishment and abolition of office.

a. As referred to in Iowa Code section 441.1, the term "federal census" includes any special census conducted by the Bureau of the Census of the U.S. Department of Commerce as well as the Bureau's decennial census.

b. Within 60 days of receiving the certified results of a federal census indicating the population of a city having its own assessor has fallen below 10,000, the city council of the city shall repeal the ordinance providing for its own assessor.

c. Whenever the office of city assessor is abolished, all moneys in the assessment expense fund and the special appraiser fund shall be transferred to the appropriate accounts in the county assessor's office, and all equipment and supplies shall be transferred to the county assessor's office. Employees of the city assessor's office may, at the discretion of the county assessor, become employees of the county assessor. However, any deputy assessor of the city may not be appointed a deputy county assessor unless certified as eligible for appointment pursuant to Iowa Code sections 441.5 and 441.10.

71.19(2) Membership.

a. *County conference boards.* A county conference board consists of the county board of supervisors, the mayor of each incorporated city in the county whose property is assessed by the county assessor, and one member of the board of directors of each high school district in the county, provided

the member is a resident of the county. Members representing school districts serve one-year terms, and the board of directors each year must notify the clerk of the conference board of its representative on the conference board. A member of the board of directors of a school district may serve on the county conference board even though the member lives in a city having its own assessor (1978 O.A.G. 466).

b. City conference boards. A city conference board consists of the county board of supervisors, the city council, and the entire board of directors of each school district whose property is assessed by the city assessor.

71.19(3) Voting.

a. Votes on matters before a conference board shall be by units as provided in Iowa Code section 441.2. At least two members of each voting unit must be present in order for the unit to cast a vote (1960 O.A.G. 226). In the event the vote of the members of a voting unit ends in a tie, that unit shall not cast a vote on the particular matter before the conference board.

b. If a member of a conference board is absent from a meeting, the member's vote may not be cast by another person, except that a mayor pro tem as provided in Iowa Code section 372.14(3) may vote for the mayor when the mayor is absent from or unable to perform official duties.

This rule is intended to implement Iowa Code section 441.2.

701—71.20(441) Board of review.

71.20(1) Membership.

a. Occupation of members. One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one registered architect or person experienced in the building and construction field if the person cannot be located after a good faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

b. Residency of members. A person must be a resident of the assessor jurisdiction served to qualify for appointment as a member of the board of review. However, a member changing assessing jurisdiction residency after appointment to the board may continue to serve on the board until the member's current term of office expires.

c. Term of office. The term of office of members of boards of review shall be for six years and shall be staggered as provided in Iowa Code section 441.31. In the event of the death, resignation, or removal from office of a member of a board of review, the conference board or city council shall appoint a successor to serve the unexpired term of the previous incumbent.

d. Membership on other boards. A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

e. Number of members. A conference board or city council may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board or city council shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board or city council shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board or city council may increase the membership of the board of review by an additional two members if it determines that a large number of protests warrant the emergency appointments. If the board of review has ten members, not more than four additional members may be appointed by the conference board. The terms of the emergency members will not exceed two years.

f. Removal from office. A member of a board of review may be removed from office by the conference board or city council but only after specific charges have been filed by the conference board or city council.

g. Appointment of members. Members of a county board of review shall be appointed by the county conference board. Members of a city board of review shall be appointed by the city conference board in cities with an assessor or by the city council in cities without an assessor. A city without an assessor can only have a board of review if the population of the city is 75,000 or more. A city with a population of more than 125,000 may appoint a city board of review or request the county conference board to appoint a ten-member county board of review.

71.20(2) Sessions of boards of review.

a. It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

b. Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue.

c. Special session. If a board of review is reconvened by the director of revenue pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and shall perform no other functions.

71.20(3) Actions initiated by boards of review.

a. Internal equalization of assessments. A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

b. Omitted assessments. A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 248 (1910)).

c. Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers need be provided only by newspaper publication as described in Iowa Code section 441.35.

71.20(4) Appeals to boards of review.

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings

be held consecutively. A board of review may allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

b. Grounds for protest. Taxpayers may protest to a board of review on one or more of the grounds specified in Iowa Code section 441.37. The grounds for protest and procedures for considering protests are as follows:

(1) The assessment is not equitable when compared with those of similar properties in the same assessing district. If this ground is a basis for the protest, the protest must contain the legal descriptions and assessments of the comparable properties. The comparable properties selected by the taxpayer must be located within the same assessing district as the property for which the protest has been filed (*Maytag Co. v. Partridge*, 210 N.W.2d 584 (Iowa 1973)). In considering a protest based upon this ground, the board of review should examine carefully all information used to determine the assessment of the subject property and the comparable properties and determine that those properties are indeed comparable to the subject property. It is the responsibility of the taxpayer to establish that the other properties submitted are comparable to the subject property and that inequalities exist in the assessments (*Chicago & N. W. Ry. Co. v. Iowa State Tax Commission*, 257 Iowa 1359, 137 N.W.2d 246(1965)).

(2) The property is assessed at more than its actual value as defined in Iowa Code section 441.21. If this ground is used, the taxpayer must state both the amount by which the property is overassessed and the amount considered to be the actual value of the property.

(3) The property is not assessable and should be exempt from taxation. If using this ground, taxpayers must state the reasons why it is felt the property is not assessable.

(4) There is an error in the assessment. An error in the assessment would most probably involve erroneous mathematical computations or errors in listing the property. The improper classification of property also constitutes an error in the assessment. If this ground is used, the taxpayer's protest must state the specific error alleged.

A board of review must determine:

1. If an error exists, and
2. How the error might be corrected.

(5) There is fraud in the assessment. If this ground of protest is used, the taxpayer's protest must state the specific fraud alleged, and the board of review must first determine if there is validity to the taxpayer's allegation. If it is determined there is fraud in the assessment, the board of review shall take action to correct the assessment and report the matter to the director of revenue.

(6) There has been a change of value of real estate since the last assessment. The board of review must determine that the value of the property as of January 1 of the current year has changed since January 1 of the previous reassessment year. This is the only ground upon which a protest pertaining to the valuation of a property can be filed in a year in which the assessor has not assessed or reassessed the property pursuant to Iowa Code section 428.4. In a year subsequent to a year in which a property has been assessed or reassessed pursuant to Iowa Code section 428.4, a taxpayer cannot protest to the board of review based upon actions taken in the year in which the property was assessed or reassessed (*James Black Dry Goods Co. v. Board of Review for City of Waterloo*, 260 Iowa 1269, 151 N.W.2d 534 (1967); *Commercial Merchants Nat'l Bank and Trust Co. v. Board of Review of Sioux City*, 229 Iowa 1081, 296 N.W. 203 (1941)).

c. Disposition of protests. After reaching a decision on a protest, the board of review shall give the taxpayer written notice of its decision. The notice shall contain the following information:

- (1) The valuation and classification of the property as determined by the board of review.
- (2) If the protest was based on the ground the property was not assessable, the notice shall state whether the exemption is allowed and the value at which the property would be assessed in the absence of the exemption.
- (3) The specific reasons for the board's decision with respect to the protest.

(4) That the board of review's decision may be appealed to the district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no

earlier than May 31. Notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review after the written notice of appeal has been filed with the clerk of district court.

This rule is intended to implement Iowa Code sections 441.31 to 441.37 and Iowa Code Supplement section 441.38 as amended by 2006 Iowa Acts, House File 2794.

701—71.21(421,17A) Property assessment appeal board.

71.21(1) Establishment, membership, and location of the property assessment appeal board.

a. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue. The board's principal office shall be in the office of the department of revenue.

b. The property assessment appeal board shall consist of three members appointed by the governor and subject to confirmation by the senate. The members shall be appointed to staggered six-year terms beginning initially on January 1, 2007, and ending as provided in Iowa Code section 69.19. Members' subsequent terms shall begin and end as provided in Iowa Code section 69.19. The governor shall appoint from the members a chairperson, subject to confirmation by the senate, of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made.

Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. Two members of the board shall be certified real property appraisers and one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals. No more than two members of the board may be from the same political party as that term is defined in Iowa Code section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(2) Powers and duties of the board. The property assessment appeal board shall:

a. Review any final decision, finding, ruling, determination, or order of a local board of review relating to assessment protests, valuation, or application of an equalization order.

b. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

c. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

d. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

e. Subpoena documents and witnesses and administer oaths.

f. Adopt administrative rules pursuant to Iowa Code chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

g. Adopt administrative rules pursuant to Iowa Code chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

h. If an appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the board after the written notice of appeal has been filed with the clerk of district court.

71.21(3) General counsel. The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the

board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(4) Compensation. The members of the property assessment appeal board shall receive a salary set by the governor within a range established by the general assembly. The members of the board shall be considered state employees for purposes of salary and benefits and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

71.21(5) Applicability and scope. These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply:

“*Appellant*” means the party filing the notice of appeal with the secretary of the property assessment appeal board.

“*Board*” means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

“*Department*” means the Iowa department of revenue.

“*Local board of review*” means the board of review as defined by Iowa Code section 441.31.

“*Party*” means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board.

“*Secretary*” means the secretary for the property assessment appeal board.

71.21(6) Appeal and jurisdiction. Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 calendar days after the date of adjournment of the local board of review or May 31, whichever is later. Appeals postmarked within this time period shall also be considered to have been timely filed. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. No new grounds in addition to those set out in the protest to the local board of review can be pleaded, but additional evidence to sustain those grounds may be introduced. The appeal is a contested case.

b. Notice of appeal may be delivered in person, mailed by first-class mail, delivered to an established courier service for immediate delivery, or e-mailed to the board at paab@iowa.gov.

c. For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 71.21(6) “*a.*”

71.21(7) Form of appeal. The notice of appeal shall include:

a. The appellant’s name, mailing address, e-mail address, and telephone number;

b. The address of the property being appealed and its parcel number;

c. A copy of the letter of disposition by the local board of review;

d. A short and plain statement of the claim showing that the appellant is entitled to relief;

e. The relief sought; and

f. If the party is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, e-mail address, and telephone number.

71.21(8) Scope of review. The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. There shall be no presumption as to the correctness of the valuation of the assessment appealed from. The burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two

disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.

71.21(9) Notice to local board of review. The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.

71.21(10) Certification by local board of review.

a. Initial certification. Within 21 days after notice of appeal is given, the local board of review shall certify to the board the original notice of assessment if any, the petition to the board of review, and a copy of the board of review's letter of disposition.

The local board of review shall also submit to the board in writing the name, address, telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at paab@iowa.gov.

b. Full record certification prior to hearing. At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest. The local board of review shall also send a copy of the full record to the opposing party.

71.21(11) Docketing. Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

- a.* The title of the appeal including jurisdiction and parcel identification number;
- b.* Brief statement of the grounds for the appeal and the relief sought;
- c.* Postmarked date of the local board of review's letter of disposition;
- d.* The manner and date/time of service of notice of appeal;
- e.* Date of notice of hearing;
- f.* Date of hearing; and
- g.* The decision by the board, or other disposition of the case, and date thereof.

71.21(12) Appearances. Any party may appear and be heard on its own behalf, or by its designated representative. A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.

71.21(13) Service and filing of papers. After the notice of appeal and petition have been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

a. Service on a party—how and when made. The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent electronically if the parties have agreed to service by such means.

b. Filing with the board—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by the applicable subrules of this rule.

- (1) For most filings in a docket made with the board, only an original is required.
- (2) For exhibits and other documents to be introduced at hearing, three copies are required. For a nonoral submission, only one copy is required.
- (3) The board or presiding officer may request additional copies.

c. Proof of mailing. Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).

(Date)

(Signature)

71.21(14) Motions. No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the secretary and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least 10 days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

b. Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to subrule 71.21(34).

71.21(15) Authority of board to issue procedural orders. The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

71.21(16) Members participating. Each appeal may be considered by one or more members of the board, and the chairperson of the board may assign members to consider appeals. If the appeal is considered by less than the full membership of the board, the determination made by such members shall be forwarded to the full board for approval, rejection, or modification. Decisions shall affirm, modify, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

71.21(17) Notice of hearing. Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 71.21(18). The notice of hearing shall contain the following information:

- a.* A statement of the date, time, and place of the hearing;
- b.* A statement of legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* That the parties may appear and present oral arguments;
- e.* That the parties may submit evidence and briefs;
- f.* That the hearing will be electronically recorded by the board;
- g.* That a party may obtain a certified court reporter for the hearing at the party's own expense;
- h.* That audio visual aids and equipment are to be provided by the party intending to use them;

i. A statement that, upon submission of the appeal, the board will take the matter under advisement. A letter of disposition will be mailed to the parties; and

j. A compliance notice required by the Americans with Disabilities Act (ADA).

71.21(18) Waiver of 30-day notice. The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be in writing or by e-mail to paab@iowa.gov and signed by the parties or their designated representatives. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

71.21(19) Transcript of hearing. All hearings shall be electronically recorded. Any party may provide a certified court reporter at the party's own expense. Any party may request a transcription of the hearing. The board reserves the right to impose a charge for copies and transcripts.

71.21(20) Continuance. Any hearing may be continued for "good cause." Requests for continuance prior to the hearing shall be in writing or by e-mail to paab@iowa.gov and promptly filed with the secretary of the board immediately upon "the cause" becoming known. An emergency oral continuance may be obtained from the board or presiding officer based on "good cause" and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors, including the existence of a scheduling order.

71.21(21) Telephone proceedings. The board or presiding officer may conduct a telephone conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

71.21(22) Disqualification of board member. A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. A board member or members shall withdraw from participation in the making of any proposed or final decision in an appeal before the board if that member is involved in one of the following circumstances:

- (1) Has a personal bias or prejudice concerning a party or a representative of a party;
- (2) Has personally investigated, prosecuted, or advocated in connection with the appeal, the specific controversy underlying that appeal, or another pending factually related matter, or a pending factually related controversy that may culminate in an appeal involving the same parties;
- (3) Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that matter, the specific controversy underlying the appeal, or a pending factually related matter or controversy involving the same parties;
- (4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- (5) Has a personal financial interest in the outcome of the appeal or any other significant personal interest that could be substantially affected by the outcome of the appeal;
- (6) Has a spouse or relative within the third degree of relationship who:
 1. Is a party to the appeal, or an officer, director or trustee of a party;
 2. Is a lawyer in the appeal;

3. Is known to have an interest that could be substantially affected by the outcome of the appeal;
- or
4. Is likely to be a material witness in the appeal; or
- (7) Has any other legally sufficient cause to withdraw from participation in the decision making in that appeal.

b. Motion for disqualification. If a party asserts disqualification on any appropriate ground, including those listed in paragraph “a,” the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.

c. The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the board, including fact gathering for purposes other than investigation of the matter which culminates in an appeal. Factual information relevant to the merits of an appeal received by a person who later serves as presiding officer or a member of the board shall be disclosed if required by Iowa Code section 17A.11 and this rule.

d. Withdrawal. In a situation where a presiding officer or any other board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

71.21(23) Consolidation and severance. The board or presiding officer may determine if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.

a. *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more appeal proceedings where:

- (1) The matters at issue involve common parties or common questions of fact or law;
- (2) Consolidation would expedite and simplify consideration of the issues involved; and
- (3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.

b. *Severance.* The presiding officer may, for good cause shown, order any appeal proceedings or portions of the proceedings severed.

71.21(24) Withdrawal. An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing or by e-mail to paab@iowa.gov and signed by the appellant or the appellant’s designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board granting a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

71.21(25) Prehearing conference. An informal conference of parties may be ordered at the discretion of the board or presiding officer or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

71.21(26) Scheduling orders.

a. *When required.* For appeals involving properties classified commercial or industrial and assessed at \$2 million or more, a scheduling order shall be sent to the parties to set dates for discovery,

designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing. In any other appeal, the parties may jointly enter a scheduling order or the board may, on its own motion, issue a scheduling order. The dates established in a scheduling order under this subrule shall supersede any dates set forth in other subrules of this rule.

b. Prehearing conference. A party may request a prehearing conference to resolve scheduling issues.

c. Modification. The parties may jointly agree to modify a scheduling order. If one party seeks to modify a scheduling order, the party must show good cause for the modification.

d. Failure to comply. A party that fails to comply with a scheduling order shall be required to show good cause for failing to comply with the order and that the other party is not substantially prejudiced. Failing to comply with a scheduling order may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

71.21(27) Hearing procedures. A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

a. Authority of presiding officer. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

b. Representation. Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative.

c. Participation in hearing. The parties to the appeal have the right to introduce evidence relevant to the grounds set out in the protest to the local board of review. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

d. Decorum. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

e. Conduct of the hearing. The presiding officer shall conduct the hearing in the following manner:
(1) The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

(2) The parties shall be given an opportunity to present opening statements;

(3) The parties shall present their cases in the sequence determined by the presiding officer;

(4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

71.21(28) Discovery.

a. Discovery procedure. Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

b. Discovery motions. Prior to filing any motion related to discovery, parties shall make a good-faith effort to resolve discovery disputes without the involvement of the board or presiding officer. Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within 10 days of the filing of the motion unless the time is shortened by order of the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response or may have a hearing or other proceedings on the motion.

c. Admissibility of evidence. Evidence obtained in discovery may be used in the case proceeding if that evidence would otherwise be admissible in that proceeding.

71.21(29) Subpoenas.*a. Issuance of Subpoena for Witness.*

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 10 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

b. Issuance of Subpoena for Production of Documents.

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 20 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas.

c. Motion to quash or modify. Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

71.21(30) Evidence.

a. Admissibility. The presiding officer shall rule on admissibility of evidence and may take official notice of facts in accordance with all applicable requirements of law.

b. Stipulations. Stipulation of facts by the parties is encouraged. The presiding officer may make a decision based on stipulated facts.

c. Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision. Irrelevant, immaterial or unduly repetitious evidence may be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Hearsay evidence is admissible. The rules of privilege apply in all proceedings before the board.

d. Exhibits, exhibit and witness lists, and briefs. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have entered a scheduling order under subrule 71.21(26). All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark exhibits with consecutive numbers. The appellee shall mark exhibits with consecutive letters.

e. Objections. Any party may object to specific evidence or may request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which the objection is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

f. Offers of proof. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

71.21(31) Settlements. Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed in writing or by an electronic copy e-mailed

to paab@iowa.gov. The board will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

71.21(32) Records access.

- a. Location of record.* A request for access to a record should be directed to the custodian.
- b. Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday excluding holidays.
- c. Request for access.* Requests for access to open records may be made in writing, in person, by e-mail, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, e-mail, and telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.
- d. Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny access by members of the public to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court or board order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the applicable provisions of law.
- e. Security of record.* No person may, without permission from the secretary, search or remove any record from board files. Examination and copying of board records shall be supervised by the secretary. Records shall be protected from damage and disorganization.
- f. Copying.* A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available, the custodian shall permit examination of the record and shall arrange to have copies promptly made elsewhere.
- g. Fees.*
 - (1) When charged. The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.
 - (2) Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board are available from the custodian. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and made available by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.
 - (3) Supervisory fee. An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall provide the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.
 - (4) Advance deposits.
 1. When the estimated total fee chargeable under this paragraph exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.
 2. When a requester has previously failed to pay a fee chargeable under this paragraph, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

71.21(33) Motion to reopen records. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision.

71.21(34) Rehearing and reconsideration.

a. Application for rehearing or reconsideration. Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued.

b. Contents of application. Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

c. Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. Requirements for objections to applications for rehearing or reconsideration. An answer or objection to an application for rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board.

e. Disposition. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

71.21(35) Dismissal. If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

71.21(36) Waivers.

a. In response to a request, or on its own motion, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

(1) The application of the rule would pose an undue hardship on the person for whom the waiver is requested;

(2) The waiver would not prejudice the substantial rights of any person;

(3) The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and

(4) Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule for which the waiver is requested.

b. Persons requesting a waiver may submit their request in writing. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if the reasons have not already been provided to the board in another pleading.

c. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

71.21(37) Appeals of board decisions. A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant. Iowa Code chapter 17A applies to judicial review of the board's final decision. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

71.21(38) Stays of agency actions. Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy. In determining whether

to grant a stay, the board or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5) "c." A stay may be vacated by the board upon application of any other party.

71.21(39) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34).

71.21(40) Judgment of the board. Nothing in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

This rule is intended to implement Iowa Code sections 421.1, 421.1A as amended by 2013 Iowa Acts, Senate File 295, division VI, 421.2, 441.37A as amended by 2013 Iowa Acts, Senate File 295, division VI, 441.38 and 441.49 and chapter 17A.

[ARC 9877B, IAB 11/30/11, effective 1/4/12; ARC 1306C, IAB 2/5/14, effective 3/12/14; ARC 1496C, IAB 6/11/14, effective 5/20/14]

701—71.22(428,441) Assessors.

71.22(1) Conflict of interest. An assessor shall not act as a private appraiser, or as a real estate broker or option agent in the jurisdiction in which serving as assessor (1976 O.A.G. 744).

71.22(2) Listing of property.

a. Forms. Assessors may design and use their own forms in lieu of those prescribed by the department of revenue provided that the forms contain all information contained on the prescribed form, are not substantially different from the prescribed form, and are approved by the director of revenue.

b. Assessment rolls. Assessment rolls must be prepared in duplicate for each property in a reassessment year as defined in Iowa Code section 428.4. However, the copy of the roll does not have to be issued to a taxpayer unless there is a change in the assessment or the taxpayer requests the issuance of the duplicate copy.

c. Whenever a date specified in Iowa Code chapter 441 falls on a Saturday, Sunday, or legal holiday, the action required to be completed on or before that date shall be considered to have been timely completed if performed on or before the following day which is not a Saturday, Sunday, or holiday.

d. Buildings erected or improvements made by a person other than the owner of the land on which they are located are to be assessed to the owner of the buildings or improvements. Unpaid taxes are a lien on the buildings or improvements and not a lien on the land on which they are located.

71.22(3) Notice of protest. If a protest or appeal is filed with the board of review, property assessment appeal board, or district court against the assessment of property valued at \$5 million or more, the assessor shall provide notice to the school district in which the property is located within ten days of the filing of the protest or the appeal, as applicable.

This rule is intended to implement Iowa Code chapter 428 and Iowa Code chapter 441 as amended by 2006 Iowa Acts, House File 2797.

701—71.23 and 71.24 Reserved.

701—71.25(441,443) Omitted assessments.

71.25(1) Property subject to omitted assessment.

a. Land and buildings. An omitted assessment can be made only if land or buildings were not listed and assessed by the assessor. The failure to list and assess an entire building is an omission for which an omitted assessment can be made even if the land upon which the building is located has been listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412 (Iowa 1984). However, the failure to consider the value added as a result of an improvement made does not constitute an omission for which an omitted assessment can be made if the building or land to which the improvement was made has been listed and assessed.

b. Previously exempt property. Property which has been erroneously determined to be exempt from taxation may be restored to taxation by the making of an omitted assessment. See *Talley v. Brown*, 146 Iowa 360, 125 N.W. 243 (1910). An omitted assessment is also made to restore to taxation previously exempt property which ceases to be eligible for an exemption.

71.25(2) Officials authorized to make an omitted assessment.

a. Local board of review. A local board of review may make an omitted assessment of property during its regular session only if the property was not listed and assessed as of January 1 of the current assessment year. For example, during its regular session which begins May 1, 1986, a local board of review may make an omitted assessment only of property that was not assessed by the assessor as of January 1, 1986. During that session, the board of review could not make an omitted assessment for an assessment year prior to 1986.

b. County auditor and local assessor. The county auditor and local assessor may make an omitted assessment. However, no omitted assessment can be made by the county auditor or local assessor if taxes based on the assessment year in question have been paid or otherwise legally discharged. For example, if a tract of land was listed and assessed and taxes levied against that assessment have been paid or legally discharged, no omitted assessment can be made of a building located upon that tract of land even though the building was not listed and assessed at the time the land was listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984).

c. County treasurer. The county treasurer may make an omitted assessment within two years from the date the tax list which should have contained the assessment should have been delivered to the county treasurer. For example, for the 1999 assessment year, the tax list is to be delivered to the county treasurer on or before June 30, 2000. Thus, the county treasurer may make an omitted assessment for the 1999 assessment year at any time on or before June 30, 2002. The county treasurer may make an omitted assessment of a building even if taxes levied against the land upon which the building is located have been paid or legally discharged. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984). The county treasurer may not make an omitted assessment if the omitted property is no longer owned by the person who owned the property on January 1 of the year the original assessment should have been made.

d. Director of revenue. The director of revenue may make an omitted assessment of any property assessable by the director at any time within two years from the date the assessment should have been made.

This rule is intended to implement Iowa Code chapter 440 and sections 443.6 through 443.15 as amended by 1999 Iowa Acts, chapter 174.

701—71.26(441) Assessor compliance. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa Real Property Appraisal Manual prepared by the department. The assessor may use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the department.

If the department finds that an assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for that assessing jurisdiction. The notice shall be mailed by restricted certified mail and shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within 30 days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be held on the matter within 60 days of receipt of the notice of noncompliance. If it is agreed that the assessor is not in compliance, the conference board shall submit a plan of action within 60 days of receipt of the notice of noncompliance.

The plan shall contain a time frame under which compliance shall be achieved, which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within 30 days of receipt of the plan,

the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department verifying that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to 5 percent of the reimbursement payment authorized in Iowa Code section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

This rule is intended to implement Iowa Code Supplement section 441.21.

[Filed 5/11/71; amended 8/16/73]

[Filed 6/21/77, Notice 4/6/77—published 7/13/77, effective 8/17/77]

[Filed emergency 7/21/77—published 8/10/77, effective 7/21/77]

[Filed emergency 8/3/79—published 8/22/79, effective 8/3/79]

[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]

[Filed 3/25/81, Notice 2/18/81—published 4/15/81, effective 5/20/81]

[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]

[Filed 3/25/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]

[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

[Filed emergency 8/13/84—published 8/29/84, effective 8/13/84]

[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]

[Filed 4/5/85, Notice 1/16/85—published 4/24/85, effective 5/29/85]

[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]

[Filed 1/10/86, Notice 12/4/85—published 1/29/86, effective 3/5/86]

[Filed 3/21/86, Notice 2/12/86—published 4/9/86, effective 5/14/86]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 5/15/87, Notice 3/25/87—published 6/3/87, effective 7/8/87]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

[Filed 6/10/88, Notice 5/4/88—published 6/29/88, effective 8/3/88]

[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]

[Filed 12/7/90, Notice 10/17/90—published 12/26/90, effective 1/30/91]

[Filed 11/18/94, Notice 10/12/94—published 12/7/94, effective 1/11/95]

[Filed 10/6/95, Notice 8/30/95—published 10/25/95, effective 11/29/95]

[Filed 11/15/96, Notice 10/9/96—published 12/4/96, effective 1/8/97]

[Filed 10/17/97, Notice 9/10/97—published 11/5/97, effective 12/10/97]

[Filed 2/12/99, Notice 9/23/98—published 3/10/99, effective 4/14/99]¹

[Filed 1/7/00, Notice 12/1/99—published 1/26/00, effective 3/1/00]

[Filed 9/15/00, Notice 8/9/00—published 10/4/00, effective 11/8/00]

[Filed 12/19/01, Notice 11/14/01—published 1/9/02, effective 2/13/02]

[Filed emergency 2/14/02—published 3/6/02, effective 2/15/02]

[Filed 10/25/02, Notice 9/4/02—published 11/13/02, effective 12/18/02]

[Filed 10/25/02, Notice 9/18/02—published 11/13/02, effective 12/18/02]

[Filed 9/10/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]

[Filed 12/30/05, Notice 11/9/05—published 1/18/06, effective 2/22/06]

[Filed 10/5/06, Notice 8/30/06—published 10/25/06, effective 11/29/06]

[Filed 1/11/07, Notice 11/22/06—published 1/31/07, effective 3/7/07]

[Filed 5/4/07, Notice 3/28/07—published 5/23/07, effective 6/27/07]

[Filed 10/19/07, Notice 9/12/07—published 11/7/07, effective 12/12/07]

[Filed 5/29/08, Notice 4/23/08—published 6/18/08, effective 7/23/08]

[Filed ARC 7726B (Notice ARC 7592B, IAB 2/25/09), IAB 4/22/09, effective 5/27/09]

[Filed ARC 8542B (Notice ARC 8428B, IAB 12/30/09), IAB 2/24/10, effective 3/31/10]

[Filed ARC 8559B (Notice ARC 8352B, IAB 12/2/09), IAB 3/10/10, effective 4/14/10]

[Filed ARC 9478B (Notice ARC 9113B, IAB 10/6/10), IAB 4/20/11, effective 5/25/11]

[Filed ARC 9877B (Notice ARC 9761B, IAB 10/5/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 0400C (Notice ARC 0286C, IAB 8/22/12), IAB 10/17/12, effective 11/21/12]

[Filed ARC 0770C (Notice ARC 0653C, IAB 3/20/13; Amended Notice ARC 0659C, IAB 4/3/13),
IAB 5/29/13, effective 7/3/13]

[Filed ARC 1196C (Notice ARC 1042C, IAB 10/2/13), IAB 11/27/13, effective 1/1/14]

[Filed ARC 1306C (Notice ARC 1238C, IAB 12/11/13), IAB 2/5/14, effective 3/12/14]

[Filed Emergency ARC 1496C, IAB 6/11/14, effective 5/20/14]

¹ Amendments nullified by 2000 Iowa Acts, SJR 2005, editorially removed IAC Supplement 7/12/00 pursuant to Iowa Code section 17A.6(3).