State of Iowa

Iowa Administrative Code Supplement

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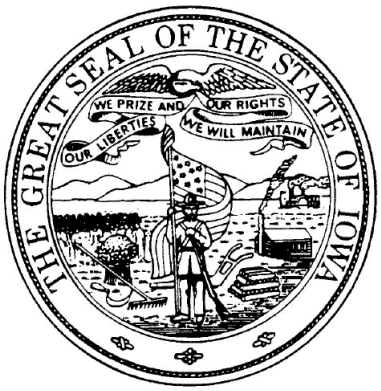

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with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

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

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

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

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

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

Utilities Division[199]

Replace Analysis
Replace Chapter 16
Replace Chapter 32

Nursing Board[655]

Replace Analysis
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Revenue Department[701]

Replace Chapters 71 and 72
Replace Chapter 80

UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199]
under the "umbrella" of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

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CHAPTER 16
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[Prior to 10/8/86, Commerce Commission[250]]

199—16.1(476) Accounting—general information.

16.1(1) *Application of rules.* These rules shall apply to any utility operating within the state of Iowa under the jurisdiction of the board pursuant to Iowa Code chapter 476, subject to the following conditions:

a. A utility may request a waiver of any of the rules in this chapter by filing a request for waiver pursuant to 199—1.3(17A,474,476,78GA,HF2206).

b. The adoption of these rules shall in no way preclude the board from altering or amending them, or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

c. These rules shall in no way relieve any utility from any of its duties under the laws of this state.

16.1(2) *Effect of rules.* In prescribing uniform systems of accounts for public utilities, the board does not commit itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining other matters before the board. The prescribed systems of accounts are designed to set out the facts in connection with all sources of funds including incomes and amounts due and receivable from each source, and the amount expended and due for each purpose distinguishing clearly all payments for operating expenses from those of new construction, extensions and additions to property; and to provide for balance sheets showing various assets and liabilities and various forms of proprietary interest under uniform classifications; and, therefrom, the board will determine, in connection with such matters as may be under advisement from time to time, what consideration shall be given to the various items in the several accounts.

16.1(3) *Implementation of rules.* Rescinded IAB 6/25/03, effective 7/30/03.

199—16.2(476) Uniform systems of accounts—electric. The uniform systems of accounts for public utilities and licensees subject to the provisions of the Federal Power Act, 18 CFR Part 101 published in the Federal Energy Regulatory Commission's rules and regulations, in effect on April 1, 2000, and the January 1, 2002, uniform systems of accounts for rural electric cooperatives prescribed for electric borrowers of the Rural Utilities Service, as applicable, are adopted with the following modifications:

16.2(1) Definition 7 published in 18 CFR Part 101 is changed to read: "Commission" means the board except where reference is made to the licensing authority of the Federal Energy Regulatory Commission (as in definitions 22 and 27), where Commission shall mean the Federal Energy Regulatory Commission. This change does not apply to definitions found in Rural Utilities Service uniform systems of accounts for rural electric cooperatives.

16.2(2) Definition 29 published in 18 CFR Part 101 is changed to read: "Public Utility" means any natural or legal person, or other entity, defined as a public utility and made subject to the authority of the board by Iowa Code section 476.1. This change does not apply to definitions found in Rural Utilities Service uniform systems of accounts for rural electric cooperatives.

16.2(3) Rescinded IAB 6/25/03, effective 7/30/03.

16.2(4) General instruction 1-B of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "Utilities subject to rate regulation by the board shall keep all the accounts of these systems of accounts which are applicable to their affairs, and utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only."

16.2(5) General instruction 1-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "It is recommended but not required that electric utilities not subject to rate regulation, other than electric cooperatives, keep all applicable accounts in accordance with the Federal Energy Regulatory Commission uniform systems of accounts, 18 CFR Part 101." Rural electric cooperatives not subject to rate regulation may choose to keep all applicable accounts in accordance with the Rural Utilities Service uniform systems of accounts.

16.2(6) General instruction 2-D of the uniform systems of accounts for electric utilities is modified by adding the following sentence: "This shall not prohibit the electric utilities from using such additional

accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders providing the board is notified of the nature, amount and purpose of such accounts in the annual report to the board and at such other times as may be requested by the board."

16.2(7) The definitions for the uniform systems of accounts for electric utilities, when used in account 424, Promotional Practices, are modified to include the following definitions:

a. The word *"affiliate"* shall mean any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

b. The word *"appliance"* or *"equipment"* shall mean any device, including a fixture, which consumes electric energy and any ancillary device required for its operation.

c. The word *"consideration"* shall mean any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

d. The word *"financing"* shall include acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

e. The word *"person"* shall include an individual, group, firm, partnership, corporation, cooperative, association, or other organization, but not including state or local political subdivisions or municipal corporations.

f. The words *"public utility"* or *"utility"* shall include persons defined to be public utilities in Iowa Code section 476.1.

g. The words *"promotional practices"* shall mean any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service; provided that the words "promotional practices" shall not include the following activities:

(1) Providing repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

(2) Inspection and adjustment of appliances or equipment by a public utility.

(3) Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at a cost or above.

(4) Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the board.

(5) Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.

(6) Providing discounts or financing to employees of a public utility to encourage their use of the utility's service.

(7) Merchandising and related inventorying of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions which due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.

(8) The replacement of or alterations to a customer's obsolete or inefficient system.

(9) Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.

(10) Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at $10 or less shall not be considered to be a promotional practice.

(11) Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.

(12) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

16.2(8) The uniform systems of accounts for electric utilities are modified to include the following:

a. 424 Promotional Practices. This account shall include the cost of labor, materials used, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate, without board written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: Studies to determine comparative capital or operating costs and expenses, or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value" in this instance is defined as the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person; provided that a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this board are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of electric utility service, except under published tariffs.

(11) Labor items related to promotional practices:

1. Salary of employees engaged directly or indirectly in promotional practices defined.
2. Clerical and stenographic work performed in relation to promotional practices.
3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.

b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list, add the following:

(1) Promotional advertising expenses.

(2) Institutional or goodwill advertising expenses.

(3) Rate justification advertising expenses.

c. 426.4 Political Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising whether on a national, regional, or local basis, which are designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account shall also include expenditures for influencing the decisions of public officials, not including expenditures as are directly related to appearances before regulatory or other governmental bodies in connection with the utility's existing or proposed operations.

(2) Entries relating to political advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where political advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"c."*

(4) Labor items related to political advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Material and expenses related to political advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5. See paragraph 16.2(8)*"k"* or FERC account 302.

d. 426.7 Promotional Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"d."*

(4) Labor items related to promotional advertising:

1. Direct supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and Expenses related to promotional advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.
7. Printing of booklets, dodgers, bulletins, etc.
8. Supplies and expenses in preparing advertising materials.
9. Office supplies and expenses.

NOTE A: The cost of advertisements which sets forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility), shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising, and the cost shall be charged to FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement, and the costs shall be distributed between this account and FERC account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising which is designed to create, enhance, or sustain the utility's image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"e."*

(4) Labor items related to institutional or goodwill advertising:

1. Supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing or conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to institutional or goodwill advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.
8. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Pronouncements primarily lauding the utility or the area or community it serves.
- Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community it serves.
- Advertising activities to inform the public of the utility's participation in programs to improve the economic condition of the area or community it serves.
- Advertising activities to inform the public of the utility's role of good citizenship.
- Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public which is not inclusive in account 909.3, Informational Consumer Advertising Expenses. See paragraph 16.2(8)*"i."*
- Advertising activities to inform the public of the utility's consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in accounts 909.1, 909.2, and 909.3.

f. 426.9 Rate Justification Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a regional or local basis which is designed to promote public acceptance of utility rate increases or the utility's filed rates. The account shall also include all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested shall be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"f."*

(4) Labor items related to rate justification advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to rate justification advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.

g. 909.1 Conservation Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily inform the customer of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer. Include in this account advertising activity relating to the electric utility which is related directly to the company's provision of service to the customer during energy, fuel, and related shortages.

(2) Entries relating to conservation advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where conservation advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"g."*

(4) Labor items related to conservation advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to conservation advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which will result in less consumption of energy.
- Advertising designed to convince consumers to turn down thermostats, turn off lights when not in use, and turn off appliances, television sets, etc., when not in use.

h. 909.2 Environmental Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily are designed to inform the public concerning the methods by which customers can participate with the utility in preserving and improving the environment. However, advertising which is primarily designed to laud the utility's achievements or projects purporting to preserve or enhance the environment, shall be recorded in account 426.8. See paragraph 16.2(8)*"e."*

(2) Entries relating to environmental advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate or any party involved in a discovery proceeding.

(3) Where environmental advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"h."*

(4) Labor items related to environmental advertising:

1. Direct supervision of advertising activities.

2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparation of booklets, bulletins, etc., used in direct mail.

4. Preparation of window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to environmental advertising:

1. Advertising in newspapers, periodicals, billboards, etc.

2. Fees and expenses of advertising agencies and commercial artists.

3. Postage on direct-mail advertising.

4. Printing of booklets, dodgers, bulletins, etc.

5. Supplies and expenses in preparing advertising materials.

6. Office supplies and expenses.

7. Novelties for general distribution.

i. 909.3 Informational Consumer Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect their health and safety, and to utilize their electric equipment safely and economically.

(2) Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where informational advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"i."*

(4) Labor items related to informational consumer advertising:

1. Direct supervision of advertising activities.

2. Preparing materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.

4. Preparing window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to informational consumer advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.

2. Fees and expenses of advertising agencies and commercial artists.

3. Postage on direct-mail advertising.

4. Printing of booklets, dodgers, bulletins, etc.

5. Supplies and expenses in preparing advertising materials.

6. Office supplies and expenses.

7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which make use of the utility's service.
- Information as to new rates, billing practices, new inspection, or meter-reading schedules.
- Notification of emergency conditions and procedures to be followed during the emergency.
- Advice concerning hazards associated with the utility's electric service.

(6) Exclude from this account and charge to FERC account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also, exclude all expenses of promotional, institutional, or goodwill, and political advertising. See paragraphs 16.2(8)*"c,"*, 16.2(8)*"d,"* and 16.2(8)*"e,"* which refer to accounts 426.4, Political Advertising Expenses, 426.7, Promotional Advertising Expenses, and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

Advertising expense directly related to obtaining a franchise or renewing an old franchise shall be charged to FERC account 302, Franchise and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new debt financing shall be charged to FERC account 181, Unamortized Debt Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

j. 909.4 Load Factor Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities designed to improve load factor so that plant and equipment already installed can be operated more efficiently and to a greater degree of capability, thereby resulting in lower overall costs to the consumer.

(2) This shall include advertising expenditures which are designed to further industrial and commercial development of the company's service area.

(3) Entries relating to load factor advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(4) Where load factor advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa electric utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.2(8)*"j."*

(5) Labor items relating to load factor advertising:

1. Direct supervision of advertising activities.
2. Preparation of advertising materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(6) Materials and expenses related to load factor advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below is an example of the advertising to be included in this account:

- Encouragement for manufacturers to go to night operations.

k. 913 Advertising Expenses. Delete the entire current text of FERC account 913 and add subaccount 913.5, Franchise Advertising Expenses.

(1) This account shall include only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising matter shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(4) Materials and expenses related to franchise advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

l. 930.2 Miscellaneous Expenses.

16.2(9) FERC accounts 421.1 or 421.2 as they are defined and exist in the uniform systems of accounts shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the board for good cause shown.

16.2(10) FERC account 105 of the uniform systems of accounts 18 CFR Part 101 is modified in subparagraph "D" by deleting the following language: "in account 411.6 or 411.7, as appropriate except when determined to be significant by the board. Upon such a determination, the amounts shall be transferred to account 256, Deferred Gains from Disposition of Utility Plant, or account 187, Deferred Losses from Disposition of Utility Plant, and amortized to accounts 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, as appropriate," and substituting in lieu thereof: "in account 421.1 or 421.2, as appropriate unless otherwise authorized or required by the board for good cause shown."

199—16.3(476) Uniform systems of accounts—gas. The uniform systems of accounts for natural gas companies subject to the provisions of the Natural Gas Act, 18 CFR Part 201 published in the Federal Energy Regulatory Commission's rules and regulations, in effect on April 1, 2002, is adopted with the following modifications:

16.3(1) Definition 7 is changed to read: "Commission" means the board except where reference is made to the authority of the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act and where the board does not have the same or similar authority under Iowa Code chapter 476, where "Commission" shall mean FERC.

16.3(2) Definition 22 is changed to read: "Natural gas company" means a person furnishing gas by piped distribution system to the public for compensation.

16.3(3) Rescinded IAB 6/25/03, effective 7/30/03.

16.3(4) General instruction 1-B of the uniform systems of accounts for gas utilities is modified to add the following sentence: "Gas utilities subject to rate regulation by the board shall keep all the accounts of these systems of accounts which are applicable to their affairs, and gas utilities not subject to rate regulation shall keep the accounts of these systems of accounts for operating revenues only."

16.3(5) General instruction 1-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: "It is recommended but not required that gas utilities not subject to rate regulation keep all applicable accounts in accordance with the FERC uniform systems of accounts 18 CFR Part 201."

16.3(6) General instruction 2-D of the uniform systems of accounts for gas utilities is modified by adding the following sentence: "This shall not prohibit the gas utilities from using additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the board is notified of the nature, amount and purpose of such accounts in the annual report to the board and at such other times as may be requested."

16.3(7) The definitions for the uniform systems of accounts for gas utilities, when used in account 424, Promotional Practices, are modified to include the following definitions:

a. The word *"affiliate"* shall mean any person doing business in this state who directly or indirectly controls or is controlled by or is under common control with a public utility.

b. The word *"appliance"* or *"equipment"* shall mean any device, including a fixture, which consumes electric energy and any ancillary device required for its operation.

c. The word *"consideration"* shall mean any cash, donation, gift, allowance, rebate, bonds, merchandise (new or used), property (tangible or intangible), labor, service conveyance, commitment, right, or other thing of value.

d. The word *"financing"* shall include acquisition of equity or debt interests, loans, guarantee of loans, advances, sale and repurchase agreements, sale and lease-back agreements, sales on open account, conditional or installment sales contracts, or other investment or extensions of credit.

e. The word *"person"* shall include any individual, group, firm, partnership, corporation, cooperative, association, or other organization, but not including state or local political subdivisions or municipal corporations.

f. The words *"public utility"* or *"utility"* shall include persons defined to be public utilities in Iowa Code section 476.1.

g. The words *"promotional practices"* shall mean any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing such person to select or use the service or additional service of such utility, or to select or install any appliance or equipment designed to use such utility service; provided that the words *"promotional practices"* shall not include the following activities:

(1) Providing repairs and service to appliances or equipment of customers of a public utility in an emergency or to restore service or to prevent hazardous conditions or service interruptions.

(2) Inspection and adjustment of appliances or equipment by a public utility.

(3) Repairs and other maintenance to appliances or equipment by a public utility that could be performed by an independent appliance dealer or service shop if charges are at cost or above.

(4) Providing service, wiring, piping, appliances, or equipment in accordance with tariffs, rules, or regulations of a public utility on file with and approved by the board.

(5) Providing appliances, equipment, or instructional services to an educational institution for the purpose of instructing students in the use or repair of such appliances or equipment.

(6) Providing discounts or financing to employees of a public utility to encourage their use of the utility's service.

(7) Merchandising and related inventory of appliances or equipment for sale at retail and making and fulfilling reasonable warranties against defects in material and workmanship in appliances or equipment existing at the time of delivery; the elimination of hazardous conditions which due to a grandfather provision would not be corrected by the customer and yet would require correction to protect the public and minimize company liability.

(8) The replacement of or alterations to a customer's obsolete or inefficient system.

(9) Technical, informational, or educational assistance offered to persons on the use of energy furnished by a public utility or on the use of maintenance of appliances or equipment.

(10) Lunches, gifts, door prizes, etc., presented for attendance at informational meetings, conferences, etc., valued at $10 or less shall not be considered to be a promotional practice.

(11) Providing appliances or equipment incidental to exhibitions, demonstrations, tests, or experiments of reasonable duration.

(12) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency.

16.3(8) The uniform systems of accounts for gas utilities are modified to include the following:

a. 424 Promotional Practices. This account shall include the cost of labor, materials used, and expenses or losses incurred by the utility or an affiliate (where such costs are charged back to the company) on promotional practices. Promotional practices, or programs which include promotional practices, and the labor, materials, and expenses related to promotional practices, which are exempted by subrule 16.7(2) need not be included in this account. The account shall include, but not be limited to, the following items:

(1) The financing of land or the construction of any building when the same is not owned or otherwise possessed by the utility or its affiliate without board written approval.

(2) The furnishing of consideration to any person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for the following: Studies to determine comparative capital or operating costs and expenses, or to show the desirability and feasibility of selecting one form of energy over another, contributions for research and development of new energy sources, etc.

(3) The acquisition from any person of any tangible or intangible property or service for a consideration in excess of the value thereof or the furnishing to any person of any tangible property or service for a consideration of less than the value thereof. "Value" in this instance is defined as the fair market price of the property or service under competitive market conditions and under arm's length conditions.

(4) The furnishing of consideration to any person for the sale, installation, or use of appliances or equipment of one form of energy over another. Employees who are paid a commission in lieu of salary for the initial sale of appliances are exempted.

(5) The provision of free, or at less than cost or value, wiring, piping, appliances, or equipment to any person; provided that a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales, or sales of damaged or returned appliances. All items required by service rules of this board are exempted.

(6) The provision of free, or at less than cost or value, installation, operation, repair, modification, or maintenance of appliances, equipment, wiring or piping to any person. This would not include services provided for the convenience and safety of customers such as gas leak testing, lighting of furnaces, etc.

(7) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the reasonable value of the trade-in based on the past experience of a company or the granting of a trade-in allowance for such appliance or equipment when such allowance varies by the type of energy consumed in the trade-in.

(8) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms significantly more favorable than those generally applicable to sales by nonutility dealers in such appliances or equipment.

(9) The furnishing of consideration to any person for any advertising or publicity purpose, except where appropriately classified to another account.

(10) The guaranteeing of the maximum cost of gas utility service, except under published tariffs.

(11) Labor items related to promotional practices:

1. Salary of employees engaged directly or indirectly in promotional practices defined.
2. Clerical and stenographic work performed in relation to promotional practices.
3. Fees paid to consultants, agents, attorneys, etc., on related promotional practices.

(12) Materials and expenses related to promotional practices:

1. Amounts spent on postage, office supplies, displays, posters, exhibits, etc.
2. Films, movies, photographs prepared for promotional activities.
3. Expenses paid such as lodging, food, entertainment expenses.
4. Transportation by company auto or plane and public transportation of any mode.

b. 426 Miscellaneous Income Deductions. Immediately following the current text and item list, add the following:

(1) Promotional advertising expenses.

(2) Institutional or goodwill advertising expenses.

(3) Rate justification advertising expenses.

c. 426.4 Political Advertising Expenses.

(1) Account 426.4 pertains to items in subparagraph 16.3(8)*"a"*(12)"1" and paragraph 16.3(8)*"b"* listed above. This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a national, regional, or local basis, which are designed to influence public opinion with respect to the election or appointment of public officials or the adoption, repeal, revocation, or modification of referenda, legislation, or ordinances. The account shall also include expenditures for influencing the decisions of public officials not including such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the utility's existing or proposed operations.

(2) Entries relating to political advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where political advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"c."*

(4) Labor items related to political advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting promotional motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to political advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, dodgers, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

NOTE: Franchise advertising and related expenses shall be charged to account 913.5 shown in paragraph 16.3(8)*"j"* or FERC account 302.

d. 426.7 Promotional Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise, load factor advertising, or advertising which is part of a promotional practice, or a program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35.

(2) Entries relating to promotional advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where promotional advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"d."*

(4) Labor items related to promotional advertising:

1. Direct supervision of advertising activities.
2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to promotional advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.
7. Printing of booklets, dodgers, bulletins, etc.
8. Supplies and expenses in preparing advertising materials.
9. Office supplies and expenses.

NOTE A: The cost of advertisements which set forth the value or advantages of utility service (without reference to specific appliances or if reference is made to appliances from dealers or refers to appliances not carried for sale by the utility) shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising, and the cost shall be charged to account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes or appliances sold by the utility and the price, terms, etc., thereof, and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement, and the costs shall be distributed between this account and account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, on the basis of space, time, or other proportional factors.

e. 426.8 Institutional or Goodwill Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising which is designed to create, enhance, or sustain the utility's image or goodwill to the general public or its customers.

(2) Entries relating to institutional or goodwill advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where institutional or goodwill advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"e."*

(4) Labor items related to institutional or goodwill advertising:

1. Supervision of advertising activities.

2. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

3. Preparing booklets, bulletins, etc., used in direct mail.

4. Preparing window and other displays.

5. Clerical and stenographic work.

6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to institutional or goodwill advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.

2. Advertising matters such as posters, bulletins, booklets, and related items.

3. Fees and expenses of advertising agencies and commercial artists.

4. Postage on direct-mail advertising.

5. Printing of booklets, dodgers, bulletins, etc.

6. Supplies and expenses in preparing advertising materials.

7. Office supplies and expenses.

8. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Pronouncements primarily lauding the utility or the area or community it serves.
- Advertising activities to inform the ratepayers of the social and economic advantages or status of the area or community it serves.
- Advertising activities to inform the public of the utility's participation in programs to improve the economic condition of the area or community the utility serves.
- Advertising activities to inform the public of the utility's role of good citizenship.
- Information and routine data supplied by the utility to local governments, planning agencies, civic groups, businesses, and the general public which are not inclusive in account 909.3, Informational Consumer Advertising Expenses. See paragraph 16.3(8)*"i."*
- Advertising activities to inform the public of the utility's consciousness of, or involvement in, health, safety, conservation, or environmental programs, except as included in accounts 909.1, 909.2 and 909.3. See paragraphs 16.3(8)*"g,"* 16.3(8)*"h,"* and 16.3(8)*"i,"* respectively.

f. 426.9 Rate Justification Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising, whether on a regional or local basis, which is designed to promote public acceptance of utility rate increases or the utility's filed rates. The account shall also include all costs incurred by the utility for advertising in opposition to the decision of the regulatory agency. However, the expenses associated with simply informing customers that new rates have been requested shall be recorded in FERC account 928, Regulatory Commission Expenses.

(2) Entries relating to rate justification advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"f."*

(4) Labor items related to rate justification advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.

2. Preparing booklets, bulletins, etc., used in direct mail.

3. Preparing window and other displays.

4. Clerical and stenographic work.

5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to rate justification advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Postage on direct-mail advertising.
5. Printing of booklets, dodgers, bulletins, etc.
6. Supplies and expenses in preparing advertising materials.
7. Office supplies and expenses.

g. 909.1 Conservation Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily inform the customer of the reasons for and methods whereby energy may be conserved and energy consumption reduced by the consumer. Include in this account advertising activity relating to the gas utility, which is related directly to the company's provision of service to the customer during energy, fuel, and related shortages.

(2) Entries relating to conservation advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where conservation advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"g."*

(4) Labor items related to conservation advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to conservation advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which will result in less consumption of energy.
- Advertising designed to convince consumers to turn down thermostats, turn off appliances, etc., when not in use.

h. 909.2 Environmental Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily are designed to inform the public concerning the methods by which customers can participate with the utility in preserving and improving the environment. However, advertising which is primarily designed to laud the utility's achievements or projects purporting to preserve or enhance the environment shall be recorded in account 426.8. See paragraph 16.2(3)*"e."*

(2) Entries relating to environmental advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or

scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where environmental advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expenses for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"h."*

(4) Labor items related to environmental advertising:

1. Direct supervision of advertising activities.
2. Preparation of materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparation of booklets, bulletins, etc., used in direct mail.
4. Preparation of window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to environmental advertising:

1. Advertising in newspapers, periodicals, billboards, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.
7. Novelties for general distribution.

i. 909.3 Informational Consumer Advertising Expenses.

(1) This account shall include the cost of labor, materials used, and expenses incurred in advertising activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing gas service to protect their health and safety, and to utilize their gas equipment safely and economically.

(2) Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising message shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Where informational advertising is undertaken by an association on behalf of its members or by a holding company on behalf of its subsidiaries, the amount of expense for such advertising charged to any member or subsidiary which is an Iowa gas utility and included in this account shall be determined in accordance with the text of this account as set forth in paragraph 16.3(8)*"i."*

(4) Labor items related to informational consumer advertising:

1. Direct supervision of advertising activities.
2. Preparing materials for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(5) Materials and expenses related to informational consumer advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Fees and expenses of advertising agencies and commercial artists.
3. Postage on direct-mail advertising.
4. Printing of booklets, dodgers, bulletins, etc.
5. Supplies and expenses in preparing advertising materials.
6. Office supplies and expenses.

7. Novelties for general distribution.

Below are examples of the advertising to be included in this account:

- Instructions in the proper use of equipment owned by the utility or the customer which makes use of the utility's service.
- Information as to new rates, billing practices, new inspection, or meter-reading schedules.
- Notification of emergency conditions and procedures to be followed during the emergency.
- Advice concerning hazards associated with the utility's gas service.

(6) Exclude from this account and charge to FERC account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Also, exclude all expenses of promotional, institutional, or goodwill, and political advertising. See paragraphs 16.3(8)*"c,"* 16.3(8)*"d,"* and 16.3(8)*"e,"* which refer to accounts 426.4, Political Advertising Expenses, 426.7, Promotional Advertising Expenses, and 426.8, Institutional or Goodwill Advertising Expenses, respectively.

Advertising expense directly related to obtaining a franchise or renewing an old franchise shall be charged to FERC account 302, Franchise and Consents. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new debt financing shall be charged to FERC account 181, Unamortized Debt Discount and Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

Advertising expense directly related to securing of new equity financing shall be charged to FERC account 214, Capital Stock Expense. Such amounts shall be maintained in a separate subaccount for ready identification.

j. 913.5 Franchise Advertising Expenses.

(1) This account shall include only reasonable advertising expenditures for the purpose of obtaining approval, modification, or revocation of franchises.

(2) Entries relating to reasonable franchise advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies or scripts of the advertising matter shall be readily available to staff, consumer advocate, or any party involved in a discovery proceeding.

(3) Labor items related to franchise advertising:

1. Preparing material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio, and television programs.
2. Preparing booklets, bulletins, etc., used in direct mail.
3. Preparing window and other displays.
4. Clerical and stenographic work.
5. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of advertising.

(4) Materials and expenses related to franchise advertising:

1. Advertising in newspapers, periodicals, billboards, radio, etc.
2. Advertising matters such as posters, bulletins, booklets, and related items.
3. Fees and expenses of advertising agencies and commercial artists.
4. Novelties for general distribution.
5. Postage on direct-mail advertising.
6. Printing of booklets, bulletins, etc.
7. Supplies and expenses in preparing advertising materials.
8. Office supplies and expenses.

k. 930.2 Miscellaneous General Expenses.

16.3(9) FERC accounts 421.1 or 421.2 as they are defined and exist in the uniform systems of accounts shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property, including land and land rights, unless otherwise authorized or required by the board for good cause shown.

16.3(10) FERC accounts 105 and 105.1 of the uniform systems of accounts 18 CFR Part 201 are modified in subparagraph "D" by deleting the following language: "in FERC account 411.6 or 411.7, as appropriate except when determined to be significant by the board. Upon such a determination, the amounts shall be transferred to FERC account 256, Deferred Gains from Disposition of Utility Plant, or FERC account 187, Deferred Losses from Disposition of Utility Plant, and amortized to FERC account 411.6, Gains from Disposition of Utility Plant, or FERC account 411.7, Losses from Disposition of Utility Plant, as appropriate," and substituting in lieu thereof: "in FERC account 421.1 or 421.2, as appropriate, unless otherwise authorized or required by the board for good cause shown."

199—16.4(476) Uniform systems of accounts—water. The 1996 uniform systems of accounts for Class A, B, and C water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) uniform systems of accounts are adopted with the following modifications:

16.4(1) Accounting instruction 2-D of the NARUC uniform systems of accounts for water utilities is modified by adding the sentence: "This shall not prohibit water utilities from using such additional accounts as they are required or permitted to keep for their reporting to other regulatory authorities or to their stockholders, providing the board is notified of the nature, amount, and purpose of such accounts in the annual report to the board and at such other times as may be requested by the board."

16.4(2) Account 414, as defined and existing in the NARUC uniform systems of accounts 414.A, shall be used to account for the gain or loss on the sale, conveyance, exchange, or transfer of utility or other property to another, unless otherwise authorized or required by the board for good cause shown.

199—16.5(476) Uniform systems of accounts—telephone. Local exchange utilities subject to regulation by the board shall keep accounts consistent with generally accepted accounting principles (GAAP) or the accounting regulations adopted by the Federal Communications Commission. Each local exchange utility shall indicate in its annual report which method of accounting it has adopted and the location of the accounting records associated with Iowa operations.

199—16.6(476) Uniform systems of accounts—telegraph. Rescinded **ARC 3316C**, IAB 9/13/17, effective 10/18/17.

199—16.7(476) Filing of promotional practices.

16.7(1) Each public utility subject to rate regulation shall file with the board written documentation describing any proposed new promotional practice as defined in the board's uniform system of accounts no less than 30 days prior to the practice's expected implementation. All practices for which the costs are to be charged to account 424 (electric and gas) shall be set forth. The accounts currently being charged with these practices shall be so listed. The company shall show the following data for each promotional practice.

a. The name, number, or letter designation of each such promotional practice.

b. The class of persons to which such promotional practice is being offered or granted.

c. Whether such promotional practice is being uniformly offered or granted to the persons within such class.

d. A description of such promotional practice, which shall include a statement of the terms and conditions governing same.

e. A description of the advertising or publicity employed with respect to such promotional practice.

f. If such promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of such affiliate or person and the nature of such party's participation shall be disclosed.

g. The expiration date of the practice, if known, or an estimated date.

h. Other information relevant to a complete understanding of such promotional practice.

i. The date or estimated date of the beginning of such promotional practices.

16.7(2) Any promotional practice, or program which includes a promotional practice, designed to develop or implement programs that promote energy efficiency and are part of the utility's energy efficiency plan developed pursuant to 199—Chapter 35 shall be deemed not to be a promotional practice for purposes of this rule and shall be exempt from the requirements of this rule.
[**ARC 3316C**, IAB 9/13/17, effective 10/18/17]

199—16.8(476) Compiling advertisements and expenses. The burden of compiling and classifying advertisements and promotional expenses consistent with the directions of accounts 426, 426.4, et seq., 913. 1, et seq., Uniform systems of Accounts — Electric and Gas, 31.324, et seq., 31.642, et seq., Uniform systems of Accounts — Telephone, and 910 Uniform systems of Accounts — Water shall be borne by public utility companies. In this connection the burden of proof as to the accuracy of such classifications and expenses, as with other cost items, shall reside with the utility.

Where a given advertisement or group of advertisements may fall within more than one of the categories defined by accounts 426.4, et seq., 913.1, et seq., Uniform systems of Accounts — Electric and Gas, 31.323, et seq., 31.642, et seq., Uniform systems of Accounts — Telephone, and 910 Uniform systems of Accounts — Water, the utilities shall apportion the expenses of such advertisements between the categories.

Every advertisement published, broadcast, or otherwise displayed or disseminated to the public by a public utility which is to be paid for by the utility's customers and is not required by the board or other state or federal regulation shall include the following statement: "The cost of this ad will be paid for by the customers of (Company Name)." This requirement shall not apply to advertisements for products or services that are or become subject to competition as determined by the board or are treated and accounted for as part of a utility's unregulated operations. When a public utility determines that the costs of an ad are to be charged in part to the customers and in part to the public utility, the public utility shall display the following notice: "x**%** of the cost of this ad will be paid for by the customers of (Company Name)." Any statement included in advertisements under this rule shall not affect the ability of the board to determine the proper ratemaking treatment of the cost of the advertisement.

199—16.9(476) Postemployment benefits other than pensions.

16.9(1) Accrual accounting for postemployment benefits other than pensions in accordance with Statement of Financial Accounting Standard No. 106 (SFAS 106) will be permitted where:

a. The accrued postemployment benefit obligations have been funded in a segregated and restricted account or alternative arrangements have been approved by the board.

b. The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by SFAS 106.

c. The transition obligation is amortized in accordance with SFAS 106.

16.9(2) The requirements of this rule do not apply to a local exchange utility regulated by the board if the utility accounts for its postemployment benefits other than pensions in a manner consistent with the regulations of the Federal Communications Commission.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.8, 476.9, 476.17, and 546.7.

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1 Effective date 1/9/85 of rule 16.8 delayed 70 days by the Administrative Rules Review Committee.

2 Subrules 16.5(48) to 16.5(85) shall be effective on the date when Part 32 becomes effective as FCC rules, except subrule 16.5(49), paragraph *"c"* is effective 9/2/87.

CHAPTER 32
REORGANIZATION

199—32.1(476) Applicability and definition of terms.

32.1(1) This chapter applies to any person who intends to acquire, sell, lease, or otherwise dispose indirectly or directly of the whole or any substantial part of a public utility's assets; or purchase, acquire, sell, or otherwise dispose of the controlling capital stock of any public utility, either directly or indirectly. Either individually or on a joint basis, a proposal for reorganization shall be filed by the person(s) to whom this chapter applies. All terms used in this chapter not otherwise defined shall be defined as the terms are defined in Iowa Code section 476.72. "Proposal for reorganization" means the application for approval of a reorganization including the supporting testimony, evidence, and filing requirements identified in rule 199—32.4(476).

32.1(2) This chapter does not apply to transfers or removals of a public utility's assets which are made specifically pursuant to a board deregulation order, as long as those transfers or removals occur within 12 months of the board's approval of an accounting separation plan.

199—32.2(476) Substantial part of a public utility's assets.

32.2(1) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to 199—1.3(17A,474,476,78GA,HF2206), no public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater. For purposes of this subrule and subrule 32.2(2), "value" means the greater of market value or book value. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

32.2(2) Unless an application pursuant to Iowa Code section 476.77 and this chapter has been filed or a waiver obtained pursuant to rule 199—32.8(476), no public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or $5 million, whichever is greater. However, for utilities for which the 3 percent limit is greater than $5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of $10 million. For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

32.2(3) Notwithstanding the provisions of subrules 32.2(1) and 32.2(2), board approval of the following types of transactions is not necessary in the public interest and such transactions are exempt from the filing requirements of Iowa Code section 476.77 and this chapter: fuel purchases, energy and capacity purchases and sales, gas purchases, sale of accounts receivables, sale of bonds, claim and litigation payments, tax payments, regulatory fees and assessments, insurance premiums, payroll, stock dividends, financings, routine financial transactions, operation and maintenance expense, construction expense, or similar transactions which occur in the ordinary course of business; provided, however, that any transaction involving more than 10 percent of a public utility's gross utility assets less depreciation, or any transaction outside the ordinary course of business, shall not be exempt under this subrule. In addition, transactions where board approval is otherwise required in a contested case proceeding are exempt from the filing requirements of Iowa Code section 476.76 and this chapter.

32.2(4) Rescinded IAB 5/26/04, effective 6/30/04.

[**ARC 3317C**, IAB 9/13/17, effective 10/18/17]

199—32.3(476) Declaratory orders. Any person may request a determination as to whether the proposed action would constitute a reorganization or whether the assets involved would constitute a substantial part of a public utility's assets, as defined in Iowa Code section 476.72 and these rules, by filing a petition for declaratory order, as set out in 199—Chapter 4.

[**ARC 3317C**, IAB 9/13/17, effective 10/18/17]

199—32.4(476) Proposal for reorganization—filing requirements. Any person who intends to accomplish a reorganization shall file supporting testimony and evidence with its proposal for reorganization, which shall include, but not be limited to, the following information:

32.4(1) General information.

a. A statement of the purposes of the reorganization and a description of the events which led to the reorganization.

b. An analysis of the alternatives to the proposed reorganization which were considered and their impact on rates and services, if any.

32.4(2) Reorganization details.

a. Written accounting policies and procedures for the subsequent operation, including the type of system of accounts to be used.

b. Staffing changes due to the proposed reorganization.

c. The situs of the books and records of the public utility after reorganization and their availability to the board.

d. A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish reorganization.

e. The proposed method for:

(1) Accounting for and allocating officers' time between the public utility and any affiliates, and

(2) Compliance with the board's rules on affiliate transactions and relationships.

f. Copies of all contracts which directly relate to the reorganization. If there are any unwritten contracts or arrangements, a summary of the unwritten contracts or arrangements verified by an officer of the operating company shall be provided.

g. Before and after organizational charts for the affected public utility and affiliates.

h. A statement of any proposed physical removal of assets from the board's jurisdiction to another jurisdiction or removal or transfer of assets from a regulated to a nonregulated environment.

32.4(3) Financial details.

a. An analysis of whether the affected public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure and corporate financial integrity, is impaired.

b. A description of the financing components of the proposed reorganization.

c. Information concerning the funding provided to any new entity created by the proposed reorganization.

d. Current and proposed reorganization balance sheets and capital structures.

e. Stockholder annual report for two years preceding the year of filing for all affected companies.

f. Stockholder quarterly reports for the two quarters just prior to the date of the filing and any subsequent reports as they become available during the proceeding, for all affected companies.

g. The major credit rating agencies' reports for two years preceding the filing date of the merger and updates as they become available during the proceeding, for all affected companies.

h. Any proxy statement to the stockholders regarding the proposed reorganization. If such is not available at time of filing, a preliminary statement shall be filed followed by the final statement when available.

32.4(4) Impact of reorganization.

a. A cost-benefit analysis which describes the projected benefits and costs of reorganizing. The benefits and costs should be quantified in terms of present value. The sources of such benefits and costs shall be identified.

b. An analysis of the projected financial impact of the proposed reorganization on the ratepayers of the affected public utilities for the first five years after reorganization.

c. An analysis of the effect on the public interest. Public interest means the interest of the public at large, separate and distinct from the interest of the public utility's ratepayers. The analysis should include a discussion of the reorganization's impact on the economy of the state and the communities where the utility is located.

If more than one public utility is involved in a reorganization, the information shall be submitted for all public utilities involved.

32.4(5) If any information required by subrules 32.4(1) through 32.4(4) is not applicable to the type of reorganization being proposed, the applicant shall, in lieu of providing the information, state the reason(s) why the particular information is not applicable to the proposal.

32.4(6) Effect on service and reliability.

a. Report on quality of service and reliability levels of utility services for each of the five years prior to the year of filing, for all affected companies.

b. Detailed statement on how the proposed reorganized entity will maintain or enhance service and reliability. Provide any investment or operational plans for this purpose that are available.

[**ARC 3317C**, IAB 9/13/17, effective 10/18/17]

199—32.5(476) Effective date. A proposed reorganization shall not become effective until at least 90 days after the date the proposal for reorganization has been submitted to the board unless the board issues an order affirmatively approving the proposed reorganization.

199—32.6(476) Insufficient filing. The board may reject for filing within 30 days any proposal for reorganization that does not contain sufficient information for the board to evaluate the proposal for reorganization. The board shall fully describe any deficiencies in a reorganization plan which is rejected for filing.

199—32.7(476) Additional information authorized. The board may require an applicant to file information in addition to the information required by rule 199—32.4(476).

199—32.8(476) Waivers. Any public utility or applicant may file an application for waiver of the provisions of this chapter. The application shall include a detailed statement of why review of a proposed reorganization is not necessary or in the public interest.

199—32.9(476) Procedural matters. Because of statutory time limitations, an expedited procedural schedule shall be utilized for proposals for reorganization. The board may order additional specific procedures as needed for the expedited hearing process.

32.9(1) Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors shall file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing.

32.9(2) Responses to data requests shall be made within five days from the date of service.

32.9(3) When a hearing on the proposed reorganization is scheduled, the applicant, consumer advocate, and any intervenors shall file a joint statement of the issues at least ten days prior to the date of hearing.

32.9(4) Intervention. Notwithstanding the provisions of 199—subrule 7.13(1) regarding the time to petition to intervene, a party may petition to intervene subsequent to the filing of an application for reorganization, but no later than a date for intervention established by the board in a notice of hearing.

[**ARC 3317C**, IAB 9/13/17, effective 10/18/17]

These rules are intended to implement Iowa Code sections 476.76 and 476.77.

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NURSING BOARD[655]

[Prior to 8/26/87, see Nursing, Board of[590], renamed Nursing Board[655] under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245]

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CHAPTER 5
CONTINUING EDUCATION
[Prior to 8/26/87, Nursing Board[590] Ch 5]

655—5.1(272C) Definitions.

"Academic offering" means an extension course, independent study, or other course which is offered for academic credit or audit by an accredited institution of higher education.

"Approved provider" means a person, organization, or institution that holds an Iowa approved provider number and has met the criteria specified in subrule 5.3(4).

"Approved provider number" means the board-assigned number which identifies an Iowa approved provider.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period; or the selection of Iowa approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

"Certification" means evidence of advanced credentials earned by a licensee who has met all eligibility criteria.

"Continuing education" means planned, organized learning activities which are designed to maintain, improve, or expand nurses' knowledge and skills or to develop new knowledge and skills relevant to nursing for the enhancement of practice, education, administration, or theory development.

"Continuing education credit" means contact hours or continuing education units (CEUs) to show evidence of course attendance.

"Extended course" means an organized program of study offered in a series of sessions.

"Informal offering" means a workshop, seminar, webinar or online course, institute, conference, lecture, extended course, provider-designed self-study, or learner-designed self-study which is offered for credit in contact hours or continuing education units.

"Learner-designed self-study" means lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems in which the learner takes the initiative and the responsibility for assessing, planning, implementing, and evaluating an educational activity under the guidance of an Iowa approved provider.

"Nonapproved provider" means a person, organization, or institution that does not hold an Iowa approved provider number. The board may recognize credit from nonapproved providers as specified in subrule 5.2(7).

"Practicum" means a course-related, planned and supervised clinical experience which includes clinical objectives and assignment to practice in a laboratory setting or with patients/clients/families for attainment of the objectives.

"Provider-designed self-study" means a program that the provider designs for the nurse to complete at the nurse's own pace, e.g., home study, programmed instruction.

[**ARC 3311C**, IAB 9/13/17, effective 1/1/18]

655—5.2(272C) Continuing education—licensees.

5.2(1) *Board authority.* The board derives its authority under Iowa Code chapter 272C to establish continuing education requirements as a prerequisite to obtain a current license and to establish an audit system to ensure compliance.

5.2(2) *Requirements.* To renew a license, the licensee shall verify the completion of 36 contact hours or 3.6 CEUs of credit or an exemption to the continuing education requirements. The hours shall be completed between the effective date and the expiration date of the license. The cost of continuing education is the responsibility of the licensee.

5.2(3) *Accumulating hours or credit.*

a. Units of measurement used for continuing education courses shall be as follows:

(1) One contact hour = 60 minutes of didactic instruction, work on learner-designed self-study, and clinical or laboratory practicum in an informal offering.

(2) One CEU = 10 contact hours.

(3) One academic semester hour = 15 contact hours.

(4) One academic quarter hour = 10 contact hours.

b. Continuing education credit will not be accepted for the same course more than once within a license period.

c. Continuing education credit shall not be carried over to a future license period.

d. Approved make-up credit shall not be used more than once.

5.2(4) *Appropriate subject matter.*

a. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Appropriate subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

(1) Nursing practice related to health care of patients/clients/families in any setting.

(2) Professional growth and development related to nursing practice roles with a health care focus.

(3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.

(4) Social, economic, ethical and legal aspects of health care.

(5) Management of or administration of health care, health care personnel, or health care facilities.

(6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

(1) Self-help and self-care that are not scientifically supported.

(2) Cardiopulmonary resuscitation and basic life support classes.

(3) Orientation in-service activities.

c. Academic offerings shall meet the qualifications of appropriate subject matter as specified above or meet the requirements of a nursing education program which extends beyond the education completed for the original nursing license. The licensee shall retain a transcript exhibiting a passing grade for each academic offering.

5.2(5) *Options for continuing education.* The following are options to complete continuing education requirements:

a. Informal offerings by the following entities:

(1) Board-approved providers.

(2) Other approved providers from state boards of nursing that have mandatory continuing education requirements.

(3) American Nurses Credentialing Center (ANCC) Commission on Accreditation.

(4) National League for Nursing (NLN).

(5) National Federation of Licensed Practical Nurses Continuing Education (NFLPN) and the NFLPN Education Foundation.

(6) National Association for Practical Nurse Education and Service, Inc. (NAPNES).

b. National certification or recertification which is related to the practice of nursing and is current at the time of a license renewal. The national certification or recertification shall be recognized as 36 contact hours of continuing education.

c. Completion of a board-approved nurse refresher course. Hours of participation will be recognized as contact hours of continuing education.

d. Participation as a preceptor for a nursing student or employee transitioning into a new clinical practice area, for a minimum of 120 hours in a one-to-one relationship as part of an organized preceptorship program. A licensee shall maintain documentation issued by the institution supervising the student or employee demonstrating the objectives of the preceptorship and the hours completed. A preceptorship shall be recognized as 12 contact hours of continuing education.

e. Completion of a nurse residency program. A residency program shall be recognized as 36 contact hours of continuing education.

f. Academic offerings provided by the following entities:

(1) Community colleges.

(2) Public and private colleges and universities.

(3) Governmental academies.

5.2(6) *Documentation.* Licensees are required to keep the following documentation, as applicable, for a period of four years: certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, proof of certification and documentation of compliance with an exemption. The certificates of attendance shall include licensee name, course date, course title, awarded hours, and provider approval information.

5.2(7) *Special approval process.* An informal offering from a nonapproved provider or an organization not specified in subrule 5.2(5) shall be accepted when the offering is specially approved by the board for an individual licensee. A licensee shall obtain special approval from the board staff, prior to the completion of the licensure period, in order to receive credit acceptable to fulfill the requirements. Special approval requires submission of a completed application and a brochure, advertisement, or course description and a certificate of attendance for the offering. Course content shall meet the qualifications of appropriate subject matter as specified in subrule 5.2(4). The licensee shall retain the approval letter from the board staff and the certificate of attendance received from the nonapproved provider. A denial of approval may be appealed to the board within 30 days of the denial.

5.2(8) *Exemptions to continuing education.* A licensee shall be exempt from continuing education requirements if the licensee:

a. Served honorably on active duty in the United States military services during the license period. A licensee who claims this exemption shall retain evidence of active duty to be presented upon request.

b. Possesses a current license to practice in another state that has mandatory continuing education requirements, so long as the license is active and the licensee resides in a state other than Iowa at the time of renewal or reactivation.

c. Worked as a registered nurse or licensed practical nurse for the government or foreign service or in missionary work, if the licensee was assigned to duty outside of the United States during the relevant time period. A licensee who claims this exemption shall retain evidence of employment outside of the United States to be presented upon request.

d. Had a physical or mental disability or illness during the relevant time period and applied for an extension of time to complete continuing education requirements or for a medical exemption from the continuing education requirements. An application is available upon request and requires the signature of a health care provider who can attest to the existence of a disability or illness during the license period. The application form shall be submitted prior to license expiration. A licensee shall not claim an extension of time or exemption from continuing education requirements on a license renewal application pursuant to this rule unless and until the licensee has received approval. A licensee who obtains approval shall retain a copy of the written approval to be presented upon request.

5.2(9) *Failure to meet requirement or qualify for an exemption.* A licensee who fails to meet continuing education requirements or qualify for an exemption prior to license expiration cannot renew the license and has the following options:

a. Complete the continuing education requirements or qualify for an exemption during the late renewal period. The licensee may be required to submit to an audit of continuing education following the late renewal and may be reaudited in the next renewal period when late credit has been accepted. Continuing education credit shall not be used more than once.

b. If the licensee does not renew within 30 days after license expiration, the license shall be placed on inactive status. An inactive license may be reactivated pursuant to 655—subrule 3.7(5).

5.2(10) *Audit of licensees.* The board may select licensees for audit following a period of licensure.

a. The licensee must submit verification of compliance with continuing education requirements or of exemptions for the period of licensure being audited. Verification for satisfactory completion of the audit includes legible copies of certificates of attendance, transcripts, proof of certification, documentation of special approval of informal offerings from nonapproved providers, documentation of compliance with exemptions in subrule 5.2(8), or other appropriate documentation.

b. The licensee must submit verification of completion of the mandatory reporter training course approved by the Iowa department of public health in the previous five years as specified in 655—subrule 3.7(3).

c. Verification must be submitted within 30 days after the date of the audit notification. An extension of time may be granted on an individual basis.

d. If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of the board office notification. The licensee may be reaudited during the next renewal period when make-up credit has been accepted. The make-up credit shall not be reused for the current renewal period.

e. The board shall notify the licensee of satisfactory completion of the audit.

f. Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 655—Chapter 4.

g. Failure to notify the board of a current mailing address will not absolve the licensee of the audit requirement.

[**ARC 3311C**, IAB 9/13/17, effective 1/1/18]

655—5.3(272C) Continuing education—providers.

5.3(1) *Board authority.* The board derives its authority under Iowa Code chapter 272C to establish requirements for becoming an Iowa approved provider and maintaining that status. The board also has the authority to audit approved providers.

5.3(2) *Initial approval process for providers.* Initial approval is granted upon the submission of required materials and the determination by the board or its representative that the materials fulfill the criteria for approved providers specified in subrule 5.3(4).

a. An application for Iowa provider approval, including the procedural instructions and requirements, is available on the board's Web site.

b. Upon receipt of three copies of the completed application materials, a review is held by a committee composed of at least three appointees of the board.

(1) The review is held at the board office within 60 days of receipt of the application.

(2) The committee review is based on the criteria specified in subrule 5.3(4).

(3) If the submitted materials meet the requirements, the committee shall approve the provider for five years and issue a provider number to the provider. The approved provider shall be notified by staff of the decision within two weeks of the committee review.

(4) If the committee finds submitted materials are incomplete or unsatisfactory, staff shall notify the provider applicant of the decision within two weeks of the committee review. The applicant is given the opportunity to meet the criteria and for an additional review to be held at the board office within six weeks of receipt of the revised application materials.

(5) If the applicant is unable to meet the criteria within two committee reviews or one year from the receipt of the initial application at the board office, whichever comes first, the committee shall recommend nonapproval at the next regularly scheduled board meeting.

(6) Notice of this recommendation of nonapproval shall be provided to the applicant by staff at least 30 days before the board meeting.

(7) The board shall make a decision regarding each recommendation of nonapproval at a board meeting.

c. A provider applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

d. A provider applicant who has been denied approved provider status may apply no sooner than one year after denial to become an approved provider by starting the initial approval process.

5.3(3) *Reapproval process for approved providers.* Reapproval is granted upon the submission of required materials and the determination by the board or its representatives that the materials fulfill the criteria for approved providers specified in this chapter.

a. The board staff shall send an application for reapproval to an approved provider six months before the expiration of the current approval. The completed application shall be submitted to the board office no later than three months prior to the expiration of the current approval.

b. Upon receipt of the application for reapproval, a review shall be made by board staff at the board office within 30 days of receipt of the application.

(1) The review is based on the criteria specified in subrule 5.3(4).

(2) If the submitted materials meet the requirements, staff shall issue a renewal of the approved provider status for a five-year period.

(3) If the submitted materials are incomplete or unsatisfactory, staff shall notify the provider of the decision within two weeks of the review. The provider shall be given the opportunity to meet the criteria within 30 days of the receipt of the board office notification. If the provider is unable to meet the requirements, staff shall recommend nonapproval at the next regularly scheduled board meeting.

(4) Notice of this recommendation of nonapproval shall be provided to the applicant at least 30 days before the board meeting.

(5) The board shall make a decision regarding each recommendation of nonapproval at the board meeting.

(6) A renewal applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

(7) A reapproval applicant who has been denied reapproval may reapply no sooner than one year after denial. The initial approval process must be followed to reapply.

5.3(4) *Criteria for approved providers.* Approved providers shall adhere to criteria indicative of quality continuing education for nurses. Provider approval applies to all programs regardless of geographic location.

a. Criteria related to appropriate subject matter. Appropriate subject matter for continuing education credits reflects both the educational needs of the nurse learner and the health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

(1) Nursing practice related to health care of patients/clients/families in any setting.

(2) Professional growth and development related to nursing practice roles with a health care focus.

(3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.

(4) Social, economic, ethical and legal aspects of health care.

(5) Management of or administration of health care, health care personnel, or health care facilities.

(6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

(1) Self-help or self-care that is not scientifically supported.

(2) Cardiopulmonary resuscitation and basic life support classes.

(3) Orientation in-service activities.

c. Criteria related to operation of an approved continuing education providership. The provider shall:

(1) Have a consistent, identifiable authority who has overall responsibility for the operation of the providership. The authority shall be knowledgeable in administration and have the capability to organize, execute, and evaluate the overall operations of the providership.

(2) Have an organizational chart to delineate lines of authority and communication within the providership, including any other cooperative or advisory committees. The organizational chart must illustrate the reporting structure of the providership within the parent organization, if applicable.

(3) Develop and implement mission, vision and values statements specific to the providership, and a strategic plan for their implementation.

(4) Maintain financial integrity so that participants receive the continuing education for which they have paid.

(5) Maintain participant and program records.

(6) Demonstrate and guarantee active nursing participation in the planning and administration of informal offerings. Nursing participation shall be documented in a written statement of policy, in denotation on the organizational chart, and in planning minutes.

(7) Develop a subject matter plan which indicates the mechanism of assessing the practice gaps of the nurse learner and describes how the provider shall meet the appropriate subject matter criteria as specified in subparagraphs 5.3(4)*"a"*(1) to (6).

(8) Demonstrate planning for each offering that includes a statement of purpose and measurable and observable learning outcomes. The outcomes shall address the educational needs and shall result in narrowing or closing the identified practice gap(s).

(9) Provide notification to licensees of the availability of informal offerings. A brochure or written advertisement shall be developed for all informal offerings other than learner-designed self-study, and an electronic copy shall be sent to the board prior to each offering. The brochure or written advertisement shall accurately describe the activities by including the date, time, and location of the informal offering, a statement of purpose, educational objectives, the intended audience, credentials of instructors, the amount of continuing education credit to be awarded, and, if applicable, costs and items covered by the fee and refund policy. The board-approved provider number shall appear on the brochure or written advertisement.

(10) Structure the program content and learning experience to relate to the stated purpose and objectives. Program content shall cover one topic or a group of closely related topics. Current, relevant, scientifically based supportive materials shall be used.

(11) Develop policies and procedures for verification of satisfactory completion of the activity by each participant. Policy shall include a system for verification of satisfactory completion, the control methods to ensure completion and a method to inform participants that completion of the offering is required prior to the awarding of credit. The provider may make an exception and award partial credit in extreme emergency conditions. The provider may award credit to other members of the providership who attend but do not serve as organizers during the actual offering. The provider may base the verification of satisfactory completion of an extended course on the participant's meeting the course objectives rather than on the number of sessions attended. The provider may award credit to a nurse for learner-designed self-study such as lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems.

(12) Develop policies and procedures for management of continuing education programs, including registration procedures, tuition refund, and enrollee grievances.

(13) Assign credit according to a uniform measure of credit: One contact hour equals 60 minutes. Credit shall not be awarded for courses less than one contact hour.

(14) If desired, cosponsor an offering provided by a nonapproved provider. When cosponsoring is pursued, the approved provider is responsible for ensuring that all criteria are met. A cosponsorship contract or letter of agreement shall delineate responsibilities of all parties, which include the approved provider awarding the credit and maintaining the program and participant records. Cosponsoring is not acceptable for learner-designed self-study.

(15) An approved provider shall notify the board within 30 days of changes in the administrative authority or address of the providership, or the provider's inability to meet the approved provider criteria.

d. Criteria related to record system and maintenance of continuing education programs. The provider shall:

(1) Maintain participant records for a minimum of four years from the date of program completion. The participant records shall include the name of the licensee, license number, contact hours awarded, titles of offerings, and dates of offerings. The record system policy and procedure shall provide for secure storage and retrieval of the participant records, shall limit employee access and shall describe security measures. Upon request from an individual nurse or the board, individual attendance and information regarding each offering shall be available within two weeks after the request. If individual nurses are assessed a fee for this retrieval service, the fee shall be specified. The board may not be charged for record retrieval requests.

(2) Maintain program records for a minimum of four years from the date of program completion. Program records for all informal offerings, other than learner-designed self-study, shall include a brochure or advertising, roster of participants to whom credit was awarded, and a summary of the program including participant and provider evaluations. The approved provider shall submit records for one informal offering in the most recent year for renewal of the approved provider status. Program records for learner-designed self-study shall include the written agreement between the learner and provider, date of completion, and learner and provider evaluations.

(3) Furnish a certificate to each participant documenting the date the credit was earned. The front of the certificate shall display: participant's name, provider number, contact hours awarded, date(s) of the offering, program title, and a reminder to the participant to retain the certificate for four years. A certificate issued by electronic means must be a print-only file.

e. Criteria related to faculty who teach informal offerings. The faculty shall:

(1) Be current, knowledgeable, and skillful in the subject matter of the offering by supplying evidence of further education in the subject. Such education shall be acquired through course completion or an advanced degree, experience in teaching in the specialized area within the three years preceding the offering, or one year of work experience in the specialized area within the three years preceding the offering.

(2) If applicable, be skillful in assisting a nurse in designing a learner-designed self-study program by having experience or education in course design.

(3) Include an actively licensed nurse if the subject matter is nursing or if the informal offering is learner-designed self-study.

(4) Utilize teaching methodologies appropriate to the subject, audience, and time allotment.

(5) Utilize current supportive materials by drawing from resources that are predominantly less than five years old unless the topic is of an historical nature.

(6) Not receive credit when teaching participants unless the faculty is presenting the offering for the first time. Faculty may receive partial credit for other presentations attended as part of the same offering.

(7) Not receive credit for learner-designed self-study from a provider which employs the faculty in the regular administration of the providership.

f. Criteria related to evaluation of continuing education programs. The provider shall include:

(1) A design for participants to assess achievement of program objectives, faculty effectiveness, and teaching-learning methodologies, resources and facilities for each offering.

(2) A summary evaluation process to assess the effectiveness of the offering and identify how results may be used to plan future offerings.

(3) A method of notifying the participants that the evaluation may be submitted directly to the board.

5.3(5) *Voluntary relinquishment of an approved providership.* An approved provider may voluntarily relinquish its provider number in one of two ways: Method one is to notify the board in writing that it no longer wants to be an Iowa approved provider. Method two is when an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider has voluntarily relinquished its approved provider status.

a. When the approved providership has been voluntarily relinquished, the provider shall discontinue providing continuing education as an Iowa approved provider.

b. The provider shall maintain the records as required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

c. The board staff shall notify other states which have mandatory nursing continuing education of the relinquishment of the approved provider status and the reason(s) for relinquishment.

d. The provider whose approved provider status has been voluntarily relinquished may apply to become an approved provider by starting the initial approval process.

5.3(6) *Audit of approved providers.* The board shall monitor approved providers for adherence to criteria as established in this chapter.

a. The board may order an audit of an approved provider or may audit as a result of a written complaint. A written complaint may be filed with the board against a provider for acts or omissions which indicate a failure to meet the criteria established in this chapter.

b. The board may revoke the approved-provider status for willful or repeated failure to meet one or more of the criteria specified in subrule 5.3(4).

c. A notice of revocation shall be issued to the provider. A provider who wishes to appeal the board's decision regarding revocation shall file an appeal within 30 days of the board's decision of revocation. A timely appeal shall initiate a contested case proceeding regarding the provider's revocation. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

d. A provider whose approved-provider status has been revoked shall no longer advertise that the provider is an approved provider. The provider number shall no longer be used or appear in brochures, advertisements, certificates, or other materials.

e. A provider whose approved-provider status has been revoked shall maintain the records required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

f. The board shall notify other states that have mandatory nursing continuing education of the revocation of the approved-provider status and the reason(s) for revocation.

g. A provider whose approved-provider status has been revoked may reapply no sooner than one year after the revocation of approval. The initial approval process must be followed to reapply.

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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 under this rule, except as provided for in paragraph 71.1(5)*"b."* 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. 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(9) 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 containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5)*"a"*(5), 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. "Used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. 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) *Multiresidential real estate.* Multiresidential real estate shall include all parcels or portions of a parcel which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, "used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. Multiresidential real estate shall include mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. Definitions. For purposes of this subrule, the following definitions apply:

(1) "Mobile home park" means any land upon which three or more mobile homes, as defined in Iowa Code section 435.1, or manufactured homes, as defined in Iowa Code section 435.1, or a combination of such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. "Mobile home park" does not include homes where the owner of the land is providing temporary housing for the owner's employees or students.

(2) "Manufactured home community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes, as defined in Iowa Code section 435.1, are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the community.

"Manufactured home community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. "Manufactured home community" means the same as "land-leased community" as defined in Iowa Code sections 335.30A and 414.28A.

(3) "Land-leased community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. "Land-leased community" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(4) "Assisted living facility" means real estate that provides housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. "Assisted living facility" also includes a health care facility, as defined in Iowa Code section 135C.1, an elder group home, as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

(5) "Dwelling unit" means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy.

b. Dual classification. Assessors shall use dual classification on parcels where the primary use of the parcel is commercial or industrial and a portion or portions of the parcel are used or intended for human habitation, regardless of the number of dwelling units. For the assessment year beginning January 1, 2015, a parcel where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel.

For assessment years beginning January 1, 2016, and after, assessors shall use dual classification on properties where the primary use of the parcel meets the requirements of the multiresidential classification and a portion or portions of the parcel meet the requirements of the commercial classification under subrule 71.1(6) or the industrial classification under subrule 71.1(7). If the primary use of a parcel is for human habitation and the parcel contains fewer than three separate dwelling units, it shall be classified as residential real estate under subrule 71.1(4).

The only permissible combinations of dual classifications are commercial and multiresidential or industrial and multiresidential. The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. Section 42 housing. Property that has elected special valuation procedures under Iowa Code section 441.21(2) and is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code shall not be classified as multiresidential property as required by 2014 Iowa Acts, House File 2466, section 3.

d. Short-term leases. A hotel, motel, inn or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as multiresidential property.

71.1(6) *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, and property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code and has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2). 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(7) *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(7)*"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(8) *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(9) *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(9)*"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(10) *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; **ARC 1765C**, IAB 12/10/14, effective 1/14/15; **ARC 2146C**, IAB 9/16/15, effective 10/21/15]

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 CSR points × (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. In cases involving the valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner's business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property's actual value.

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:

	Re	=	B (Rm - Rf) + Rf
Where:	Re	=	return on equity
	B	=	beta
	Rm	=	return on the market
	Rf	=	risk-free rate of return
	Rm - Rf	=	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).
[**ARC 3107C**, IAB 6/7/17, effective 7/12/17]

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 department 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 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 in 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 department in equalizing the valuations of classes of properties.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.
[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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 department in equalizing valuations of classes of property.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.
[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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.

71.11(1) Commencing in 1977 and every two years thereafter, the department 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 that 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 department 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 department pursuant to rule 701—71.12(441). Equalization orders of the department 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.

71.11(2) 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 that 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.

[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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 department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, 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.

(1) 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 that resulted in the determination that the sales were 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 department of revenue may also supplement the assessment/sales ratio study with appraisals made by department 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 department 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.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that 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 department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, 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	1,397			

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 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) *Multiresidential real estate.*

a. Use of assessment/sales ratio study.

(1) 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 that resulted in the determination that the sales were 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 department of revenue may also supplement the assessment/sales ratio study with appraisals made by department 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 multiresidential real estate in each assessing jurisdiction. The department 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.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that 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 department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, to determine the level of assessment of multiresidential real estate.

c. Equalization appraisal selection procedures for multiresidential real estate. To the extent possible, multiresidential 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 manner outlined in paragraph 71.12(4)*"c."*

The following restrictions shall render a property ineligible for the appraisal selection for multiresidential property:

Vacant building
Current-year sale
Partial assessment
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 $10,000

Building on leased land

71.12(4) *Commercial real estate.*

a. Use of assessment/sales ratio study.

(1) 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 that resulted in the determination that the sales were 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 department of revenue may also supplement the assessment/sales ratio study with appraisals made by department 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 department 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. Properties receiving a dual classification with the primary use being commercial shall be included.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that 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 department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, 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.

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 manner outlined below. Properties receiving a dual classification with the primary use being commercial shall be included.

(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 $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 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(4)*"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(4)*"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(4)*"c"*(3)"2." Alternate properties are selected by using the same procedure described in 71.12(4)*"c"*(3)"3."

5. Follow procedures 71.12(4)*"c"*(3), items "1" to "4," for each of the other originally selected sequence numbers.

71.12(5) *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 department may correct any errors in such assessments that are brought to the attention of the department, including errors related to property with a dual classification if the primary use of the property is from the industrial portions.

71.12(6) *Centrally assessed property.* Property assessed by the department of revenue pursuant to Iowa Code chapters 428 and 433 to 438, inclusive, is equalized internally by the department 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 department 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 department of revenue. However, under the circumstances set forth in Iowa Code section 421.17(10), the department may correct any errors in assessments which are brought to the attention of the department.

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; **ARC 1765C**, IAB 12/10/14, effective 1/14/15; **ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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 department.

71.14(1) *Protests.* Written or oral protest against the proposed percentage adjustments as set forth in the tentative equalization notice issued by the department 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 department, 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 department in reviewing the protests. Protests and hearings on tentative equalization notices before the department are excluded from the provisions of the Iowa Administrative Procedure Act governing contested case proceedings.

71.14(2) *Conduct of hearing.* The department 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 division administrator for the property tax division shall act as the department's representative. The department's representative shall preside at the hearing, which shall be held at the time and place designated by the department or such other time and place as may be mutually agreed upon by the department and the protesting assessing jurisdiction.

This rule is intended to implement Iowa Code section 441.48.

[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

701—71.15(441) Final equalization order and appeals.

71.15(1) *Issuance of 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 department of revenue 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.

71.15(2) *Appeal of final equalization order.* The city or county officials of the affected county or assessing jurisdiction may appeal a final equalization order to the director of revenue by filing a notice of appeal with the clerk of the hearings section of the department of revenue. The notice of appeal must be filed or postmarked not later than ten days after the date the final equalization order is issued.

a. Form of appeal. The notice of appeal shall be in writing and in the same format as provided in 701—subrule 7.8(6).

(1) The notice of appeal shall substantially state in separate numbered paragraphs the following:

1. The county or assessing jurisdiction;
2. The date on which the final equalization order was issued;
3. The portion of the equalization order being appealed;
4. A clear and concise assignment of each and every error;
5. A clear and concise statement of the facts upon which the affected county or assessing jurisdiction relies as sustaining the assignment of error;
6. The relief requested;
7. The signature of the city or county officials bringing the appeal, or their representative, along with the address to which all subsequent correspondence, notice or papers shall be served or mailed.

(2) A county or assessing jurisdiction may amend its notice of appeal at any time prior to the commencement of the evidentiary hearing. The department may request that the county or assessing jurisdiction amend the notice of appeal for clarification.

b. Filing of notice of appeal. The notice of appeal must either be delivered to the department by electronic means or by United States Postal Service or a common carrier, by ordinary, certified, or registered mail, directed to the attention of the clerk of the hearings section at P.O. Box 14457, Des

Moines, Iowa 50319, or be personally delivered to the clerk of the hearings section or served on the clerk of the hearings section by personal service during business hours. For the purpose of mailing, a notice of appeal is considered filed on the date of the postmark. If a postmark date is not present on the mailed article, then the date of receipt of protest will be considered the date of mailing. Any document, including a notice of appeal, is considered filed on the date personal service or personal delivery to the office of the clerk of the hearings section is made. See Iowa Code section 622.105 for the evidence necessary to establish proof of mailing.

c. Answer. The department of revenue shall file an answer with the clerk of the hearings section within 30 days after the filing of the pleading responded to, unless attacked by motion as provided in 701—subrule 7.17(5), and then the answer shall be filed within 30 days after the date on which the fact finder issues a ruling on the motion. The department may amend its answer at any time prior to the commencement of the evidentiary hearing.

d. Docketing. Appeals shall be assigned a docket number as provided in rule 701—7.10(17A). Records consisting of the case name and the corresponding docket number assigned to the case must be maintained by the clerk of the hearings section. The records of each case shall also include each action and each act done, with the proper dates as follows:

(1) The title of the appeal;

(2) Brief statement of the date of the final equalization order, the property tax classification affected, and the relief sought;

(3) The manner and time of service of notice of appeal;

(4) The appearance of all parties;

(5) Notice of hearing, together with manner and time of service; and

(6) The decision of the director or administrative law judge or other disposition of the case and the date.

e. Hearing. Rules 701—7.14(17A) through 701—7.22(17A) shall apply to any hearing or proceeding regarding the appeal of a final equalization order to the director of revenue.

This rule is intended to implement Iowa Code chapter 17A and sections 441.48 and 441.49.
[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

701—71.16(441) Alternative method of implementing equalization orders.

71.16(1) *Application for permission to use an alternative method.*

a. 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 department of revenue within ten days from the date the county auditor receives the final equalization order. The written request shall include the following information:

(1) 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.

(2) The exact methods to be employed in implementing the requested alternative method for each class of property.

(3) The specific method of notifying affected property owners of the valuation changes.

(4) Evidence that the alternative method will result in an aggregate property class valuation adjustment equivalent to that prescribed in the department's final equalization order.

b. The department 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 department'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 department 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 department 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.

[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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 department'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 department 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 department'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 department 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 department 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.

[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

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 licensed 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 shall be provided by newspaper publication as described in Iowa Code section 441.35 and in the manner specified in Iowa Code section 441.36.

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 2 and April 30, inclusive. In the event April 30 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by April 30 or the following Monday if April 30 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.
[**ARC 2707C**, IAB 9/14/16, effective 10/19/16; **ARC 3312C**, IAB 9/13/17, effective 10/18/17]

701—71.21(421,17A) Property assessment appeal board. This rule applies to appeals filed before January 1, 2015, in which the property assessment appeal board has jurisdiction to hear appeals from the action of a local board of review. Appeals filed on or after January 1, 2015, are governed by 701—Chapter 126.

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; **ARC 2108C**, IAB 8/19/15, effective 9/23/15]

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(421,428,441) Valuation of multiresidential real estate. Multiresidential real estate shall be assessed at a percent of its actual value as defined in Iowa Code section 441.21. In determining the actual value of multiresidential 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.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.
[**ARC 1765C**, IAB 12/10/14, effective 1/14/15]

701—71.24(421,428,441) Valuation of dual classification property. Real estate with a dual classification of commercial/multiresidential or industrial/multiresidential shall be assessed at its actual value as defined in Iowa Code section 441.21.

71.24(1) *Allocation of dual classification values.* The assessor shall value as a whole properties that have portions classified as multiresidential and portions classified as commercial or industrial using the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

71.24(2) *Notice of valuation.* The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

71.24(3) *Protest of assessment.* The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.
[**ARC 1765C**, IAB 12/10/14, effective 1/14/15]

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. Department of revenue. The department of revenue may make an omitted assessment of any property assessable by the department 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.

[**ARC 2657C**, IAB 8/3/16, effective 9/7/16]

701—71.26(441) Assessor compliance.

71.26(1) 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.

71.26(2) 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.

71.26(3) 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. The director's decision is subject to judicial review in accordance with Iowa Code chapter 17A. 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.

71.26(4) The plan of action 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 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.

71.26(5) By January 1 of the assessment year following the calendar year in which the plan of action was submitted to the department, the conference board shall submit a report to the department verifying that the plan 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 department determines that the assessor is in compliance.

71.26(6) If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the director of revenue under 701—Chapter 7.

This rule is intended to implement Iowa Code section 441.21.

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CHAPTER 72
EXAMINATION AND CERTIFICATION OF ASSESSORS AND DEPUTY ASSESSORS
[Prior to 12/17/86, Revenue Department[730]]

701—72.1(441) Application for examination.

72.1(1) The application for the examination shall be made on a form prescribed by the director and shall constitute an integral part of the examination. The application form shall require information as to the education, training, and experience of the applicant and such other information as the director may deem pertinent. Applications must be received by the department at least three days prior to the date of the examination. Applications filed on or after the effective date of this rule shall be considered public records pursuant to Iowa Code chapter 22 (*City of Dubuque v. Telegraph Herald, Inc.,* 297 N.W.2d 523 (Iowa 1980); 1982 O.A.G. 3).

72.1(2) Upon receipt of a properly filed application, the department shall issue to the applicant a card granting the applicant admission to the examination. No applicant shall be admitted to the examination without presenting the admission card to the examination monitor.

72.1(3) Whenever there occurs a vacancy in the office of assessor, the director shall, upon the written request of the examining board or conference board, forward to the board a copy of any applications requested by either board. When a vacancy occurs in the office of deputy assessor, the director shall, upon the written request of the assessor, forward to the assessor a copy of any applications requested by the assessor.

This rule is intended to implement Iowa Code section 441.5.

701—72.2(441) Examinations.

72.2(1) *Examination questions.* Examination questions and answers shall not be made available to persons other than employees of the department authorized by the director to have access to them. Persons who take the examination shall not discuss with anyone the specific questions contained in the examination, nor shall they reveal any specific examination question to another person. This shall not restrict persons who have taken the examination from discussing the general subject matter of the examination.

72.2(2) *Materials and supplies.* All examination materials shall be furnished by the department and must be returned to the monitor prior to the applicants' leaving the examination room site. During the examination, applicants may be permitted to use their own slide rules or electronic calculators as long as their use does not disturb other applicants. Applicants shall not be permitted to bring any other materials into the examination room, nor shall they be permitted to take any materials from the examination room except their own slide rules or electronic calculators.

72.2(3) *Personal conduct during examination.* To preserve the integrity of the examinations and the assessing profession, each person taking an examination shall exhibit behavior which is not disruptive to other applicants and no person shall cheat or attempt to cheat on an examination in any manner.

72.2(4) *Monitors.* The director shall, prior to the examination, provide all applicants with a copy of subrules 72.2(1), 72.2(2), and 72.2(3). Examination monitors shall have the authority to enforce these rules in accordance with subrule 72.2(5).

72.2(5) *Violations.* Any person who intentionally violates any of the provisions of subrule 72.2(1), 72.2(2), or 72.2(3) shall be subject to the penalties specified in this subrule. If an infraction of subrule 72.2(1), 72.2(2), or 72.2(3) occurs and is detected and confirmed during the examination, the examination of the person committing the infraction shall be confiscated by the monitor and shall not be scored. If the infraction is detected and confirmed after the examination of the person committing the infraction has been scored, the score resulting from that examination shall be reduced to a failing grade and, if necessary, the list of candidates eligible for the position of city or county assessor or deputy assessor shall be adjusted accordingly.

72.2(6) *Review of examination.* Rescinded IAB 9/13/17, effective 10/18/17.

72.2(7) *Assessor examination scores.* The scores of persons who take the assessor or deputy assessor examination shall be considered public records pursuant to Iowa Code chapter 22.

72.2(8) Rescinded effective April 3, 1985.

72.2(9) *Length of examination.* The director shall determine the appropriate amount of time in which persons may take the examination. Any person who arrives at the examination site after the examination has begun shall not be permitted to complete the examination after the time scheduled for its completion.

72.2(10) *Retaking examination.* A person who takes the examination for the position of city or county assessor shall not be eligible to take the examination again for a period of at least 30 days following the date the examination was taken, subject also to the restrictions contained in subrule 72.2(5).

72.2(11) *Frequency of examination.* At the discretion of the director, statewide examinations for the positions of assessor or deputy assessor may be held more than twice a year in Des Moines.

72.2(12) *Make-up examination prohibited.* Special make-up examinations shall not be held for persons who applied to take the examination for the position of assessor or deputy assessor but who did not for any reason appear at the scheduled examination site.

This rule is intended to implement Iowa Code section 441.5.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09; **ARC 3313C**, IAB 9/13/17, effective 10/18/17]

701—72.3(441) Equivalent of high school diploma. Only persons who possess a high school diploma or its equivalent are eligible to take the examination. The equivalent of high school diploma shall consist of a high school equivalency certificate issued by the department of public instruction pursuant to Iowa Code chapter 259A, a similar document issued by the U.S. armed forces, or a similar document issued by another state.

This rule is intended to implement Iowa Code section 441.5.

701—72.4(441) Appraisal-related experience. Appraisal-related experience shall include only such experience as may have been obtained through full-time paid employment consisting of the actual appraisal and valuation of property. The experience shall have included the physical inspection of property as part of the appraisal process and the setting of values for parcels of property.

This rule is intended to implement Iowa Code section 441.5.

701—72.5(441) Regular certification.

72.5(1) To obtain regular certification, a person must pass the examination and (a) possess two years' appraisal-related experience at the time of passing the examination, or (b) have obtained temporary certification, received a provisional appointment as assessor, and successfully completed the course of study prescribed by the director as provided in Iowa Code section 441.5.

72.5(2) If subsequent to passing the examination a person who has not received a provisional appointment as assessor attains two years' appraisal-related experience, the person must again pass the examination to obtain regular certification.

72.5(3) A regular certificate expires two years after the most recent date certification is granted by the director. However, the regular certificate of a person who receives an appointment as assessor remains valid until the person's resignation or removal from the position of assessor, even though more than two years may have expired since certification was last granted.

72.5(4) A regular certificate may at any time be renewed if the person possessing such a certificate passes the assessor examination. A regular certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in subrule 72.5(3).

This rule is intended to implement Iowa Code section 441.5.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.6(441) Temporary certification.

72.6(1) To obtain temporary certification, a person who does not possess two years' appraisal-related experience must pass the examination for the position of assessor.

72.6(2) The temporary certificate of a person who does not receive a provisional appointment as assessor shall expire two years after the date the certification is granted by the director.

72.6(3) The temporary certificate of a person who does not receive a provisional appointment as assessor may be renewed if the person retakes and passes the assessor examination. A temporary certificate so renewed shall remain valid for a period of two years from the date temporary certification was last granted.

72.6(4) The temporary certificate of a person who receives a provisional appointment as assessor shall expire upon the person's successful completion of the course of study provided in Iowa Code section 441.5 and the granting of regular certification by the director.

72.6(5) The director shall revoke the temporary certificate of a person who receives a provisional appointment as assessor and who does not complete the course of study provided in Iowa Code section 441.5 within 18 months of the person's appointment as assessor. Upon the revocation of an assessor's temporary certificate, the director shall notify the person of the revocation and shall notify the appropriate conference board of the revocation and that the assessor whose temporary certificate has been revoked is no longer eligible to hold the position of assessor.

This rule is intended to implement Iowa Code section 441.5.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.7(441) Restricted certification. Rescinded IAB 4/22/09, effective 5/27/09.

701—72.8(441) Deputy assessors—regular certification.

72.8(1) A person who passes the examination for assessor or deputy assessor shall be granted regular deputy assessor certification by the director and shall be eligible for appointment to a deputy assessor position.

72.8(2) A deputy assessor regular certificate shall expire two years after the most recent date certification is granted, except as provided in subrule 72.8(3).

72.8(3) The deputy assessor regular certificate of a person who is appointed deputy assessor shall remain valid until the person's resignation or removal from the position of deputy assessor, or until the death, resignation, or removal of the assessor who appointed the person as deputy assessor. However, in the event of the death, resignation, or removal of the assessor, the deputy assessor certificate of the chief deputy shall remain valid until a new assessor is appointed. Nothing contained in this rule shall be construed to relieve a deputy assessor holding a restricted certificate of the continuing education requirements for the retention of the deputy assessor's position as provided in Iowa Code section 441.8.

72.8(4) A deputy assessor regular certificate may at any time be renewed if the person possessing such a certificate passes the assessor or deputy assessor examination. A deputy assessor certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in subrule 72.8(3).

This rule is intended to implement Iowa Code section 441.5.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.9(441) Deputy assessors—restricted certification. Rescinded IAB 4/22/09, effective 5/27/09.

701—72.10(441) Appointment of deputy assessors.

72.10(1) The appointments of deputy assessors holding regular certificates shall expire upon the death, resignation, or removal of the assessor, except that the appointment of the chief deputy assessor shall not expire until the appointment of a new assessor, nor shall the restricted certificate of a deputy assessor expire at that time.

72.10(2) After the appointment of a new assessor, the assessor may appoint one or more deputy assessors from the registers of persons certified as eligible for appointment as assessor or deputy assessor. The assessor shall notify the director immediately of persons appointed as deputy assessors, the vacating of office by a deputy assessor, or a change in a deputy assessor's legal name.

This rule is intended to implement Iowa Code sections 441.5, 441.10 and 441.11.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.11(441) Special examinations. The conference board of the city or county in which a special examination is held shall reimburse the department for all expenses incurred in the administration of the examination. In determining the amount of reimbursement, the director shall take into consideration the costs of traveling to and from the examination site, meals and lodging, if any, for the monitor administering the examination, the costs of preparing and grading the examinations, and the salary of the monitor during the time expended on the examination.

This rule is intended to implement Iowa Code sections 441.5 to 441.7.

701—72.12(441) Register of eligible candidates. Following the administration and grading of an examination for assessor or deputy assessor, the director shall establish updated registers containing the names, in alphabetical order, and addresses of all persons eligible for appointment. The registers shall not contain test scores, but the scores shall be given to the city or county conference board upon request. Eligible candidates shall remain on the register for two years following the date of certification by the director after which time the person must successfully retake the examination to be placed on the register. However, assessors and deputy assessors with six years of consecutive service shall be placed on the register permanently without further testing being required. "Consecutive service" means service in which there was not more than 30 days' break in service. Assessor and deputy assessor service cannot be combined to meet the six-year consecutive service requirement.

Assessors and deputy assessors must complete the continuing education requirements provided in Iowa Code sections 441.5 and 441.10 to be reappointed to their present position or appointed to the same position in a different assessing jurisdiction. This provision does not apply to persons not presently serving as an assessor or deputy assessor. It shall be the duty of the conference board in the case of assessor appointments and the duty of the assessor in the case of deputy assessor appointments to receive written verification from the director of continuing education requirement compliance. An assessor or deputy assessor appointed as such without having complied with continuing education requirements shall be removed from office on order of the director. No continuing education requirements need be met for an assessor to be appointed a deputy assessor nor for a deputy assessor to be appointed an assessor.

This rule is intended to implement Iowa Code sections 441.5 and 441.10.

701—72.13(441) Course of study for provisional appointees. A person who possesses temporary certification and receives a provisional appointment as assessor shall within 18 months of the appointment complete a course of study prescribed and administered by the department of revenue. The course of study shall include the following: (1) attendance of at least one basic assessment school conducted by the department of revenue; (2) field instruction by appraisal personnel of the department of revenue; (3) the actual appraisal of representative properties in each class of real estate; and (4) attendance at the annual school of instruction sponsored by the department of revenue and the Iowa State Association of Assessors. In the event a person is unable to attend the annual school of instruction due to circumstances beyond the person's control, the director may, upon the request of the person, substitute comparable instruction for the fulfillment of this requirement. At three-month intervals following the appointment of the assessor, department of revenue appraisal personnel shall complete a review of the assessor's performance and discuss the review with the assessor. If the review indicates unsatisfactory progress is being made toward developing a working knowledge of appraisal principles, the assessor shall be informed as to how the assessor's performance could be improved. Not less than 60 nor more than 90 days before the expiration of the 18-month period, the director of revenue shall inform the assessor and the conference board of the assessor's jurisdiction of the director's determination as to whether the assessor satisfactorily completed the course. If the assessor satisfactorily completes the course, the assessor shall be granted regular certification. If the assessor does not satisfactorily complete the course, the director shall revoke the assessor's temporary certificate and notify the assessor and the conference board of the revocation and that the person is no longer eligible to hold the position of assessor.

This rule is intended to implement Iowa Code section 441.5.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.14(441) Examining board.

72.14(1) *Membership.* Each voting unit of the conference board shall appoint a member of the examining board. Members of the examining board shall not be members of the conference board, a body which selects a member of the conference board, or the local board of review (1960 O.A.G. 226). A person must be a resident of the assessing jurisdiction served to qualify for appointment as a member of the examining board. 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.

72.14(2) *Terms of members.* Members of the examining board shall be appointed for terms of six years. In the event of death, resignation, or removal from office of a member of the examining board, the appropriate voting unit of the conference board shall appoint a successor to serve the unexpired term of the previous incumbent.

72.14(3) *Removal of member.* A member of an examining board may be removed from office only after specific charges have been filed against the member and a public hearing has been held if requested by the member.

72.14(4) *Duties.* The examining board may, at its discretion, contact all or some of the persons on the register of candidates eligible for appointment as assessor. The examining board may conduct interviews with interested persons and may administer such further examinations as may enable the board to submit a recommendation to the conference board. In arriving at its recommendation, the examining board may set other professional standards including, but not limited to, examination scores, education, and experience.

72.14(5) *Report to conference board.* The report to the conference board required pursuant to Iowa Code section 441.6 should contain a complete description of the examining board's investigations and activities. The report may, at the discretion of the examining board, contain recommendations to the conference board.

72.14(6) *Time for action.* The examining board shall take all steps necessary to comply with the time frames set forth in Iowa Code section 441.6.

This rule is intended to implement Iowa Code sections 441.2, 441.3, 441.4, and 441.6.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—72.15(441) Appointment of assessor.

72.15(1) *Meeting the conference board.* At the time specified in Iowa Code section 441.6, the conference board shall hold a meeting and take action to appoint an assessor or request permission to hold a special examination. Within ten days of this meeting, the conference board shall notify the director of the appointment or request a special examination.

72.15(2) *Time for action.* A conference board shall adhere to the time frames specified in Iowa Code section 441.6 in appointing an assessor to fill a vacant position.

72.15(3) *Special examination.* A request for a special examination shall be made only after the conference board has made a good faith attempt to appoint an assessor from the current register of eligible candidates. The request shall state the reason or reasons the conference board feels the director of revenue should grant permission to hold the special examination.

This rule is intended to implement Iowa Code section 441.6.

701—72.16(441) Reappointment of assessor.

72.16(1) *Time for reappointment.* A conference board must decide whether to reappoint an incumbent assessor at least 90 days before the expiration of the incumbent's term. If the incumbent is not to be reappointed, the conference board shall so notify the incumbent in writing at least 90 days before the expiration of the incumbent's term. Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed.

72.16(2) *Continuing education.* A conference board shall not reappoint an incumbent assessor if the board has not received from the assessor education advisory committee certification that the incumbent assessor has satisfied all continuing education requirements.

This rule is intended to implement Iowa Code Supplement section 441.8.

701—72.17(441) Removal of assessor. An assessor may be removed from office for the reasons stated in Iowa Code section 441.9, but only after the charges have been substantiated.

This rule is intended to implement Iowa Code section 441.9.

701—72.18(421,441) Courses offered by the department of revenue.

72.18(1) *Class size.* The director may determine the maximum number of students for a particular class in order to maintain a suitable learning environment. Applications to take a course shall be accepted in the order in which they are received by the department. If the number of applications received as of a specific mail delivery results in the receipt of more applications than there are spaces for the class, those applications received in that mail delivery shall be subject to a drawing by lot to determine those which shall be accepted for the class. However, persons who are not currently serving as assessors or deputy assessors shall not be admitted to a course ahead of persons serving as assessors or deputy assessors, regardless of the date on which their applications were received.

72.18(2) *Examinations during the course.* Examination questions and answers shall not be made available to persons other than employees of the department authorized by the director to have access to such information. Persons who take the examination shall not discuss with anyone the specific questions contained in the examination, nor shall they reveal any specific examination question to another person. This shall not restrict persons who have taken a course examination from discussing the general subject matter of the examination.

72.18(3) *Materials and supplies.* All examination materials shall be furnished by the department and must be returned to the monitor prior to the students leaving the examination. During the examination, students may be permitted to use their own slide rules or electronic calculators as long as their use does not disturb other students. Students shall not be permitted to bring any other materials into the examination room, nor shall they be permitted to take any materials from the examination room except their own slide rules or electronic calculators.

72.18(4) *Personal conduct during course and examination.* To preserve the integrity of the examinations and the assessing profession, each person taking an examination shall not exhibit behavior which is disruptive to other persons taking the examination, nor shall a person cheat or attempt to cheat on an examination in any manner.

72.18(5) *Violations.* Any person who intentionally violates any of the provisions of subrule 72.18(2), 72.18(3), or 72.18(4) shall be subject to the penalties specified in this subrule. If an infraction of subrule 72.18(2), 72.18(3), or 72.18(4) occurs and is detected and confirmed during the examination, the examination of the person committing the infraction shall be confiscated by the instructor and shall not be scored. If the infraction is detected and confirmed after the examination of the person committing the infraction has been scored, the score resulting from that examination shall be reduced to a failing grade and the director shall notify the assessor education advisory committee of the action taken. If the infraction is detected and confirmed during the course, the instructor shall expel the student from the classroom, and the student shall not be permitted to take the examination for the course.

72.18(6) *Instructors.* Course instructors shall inform all students of the provisions of subrules 72.18(2), 72.18(3), and 72.18(4). The instructors shall have the authority to enforce these rules in accordance with subrule 72.18(5).

72.18(7) *Retaking examination.* A person who receives a failing score on the examination for a course may retake the examination by submitting a request to the director within ten days of the date the director notifies the person of the examination score. The examination shall be retaken at the office of the department in Des Moines or at the site of any scheduled course examination, and shall be retaken within 30 days of the date the original examination was taken. A person who retakes an examination may not again take that particular course for credit until at least 30 days have passed from the date the examination was retaken. A special examination may be taken only once for a particular course, regardless of the number of times a student takes the course. A special examination shall be given only if the student took and failed the examination given at the end of a course taken for credit.

72.18(8) *Review of examination.* Persons who have taken a course examination may, after presenting proper identification, review their examinations in the office of the department's property tax division

within 60 days after the date the examination has been administered. The review shall consist only of examining the person's own answer sheet and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take the same examination for a period of at least 30 days following the date of the review of the examinations.

72.18(9) *Length of examination.* The director shall determine the appropriate amount of time in which persons may take each examination. Any person who arrives at the examination site after the examination has begun shall not be permitted to complete the examination after the time scheduled for completion.

This rule is intended to implement Iowa Code section 441.8.

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CHAPTER 80
PROPERTY TAX CREDITS AND EXEMPTIONS
[Prior to 12/17/86, Revenue Department[730]]

701—80.1(425) Homestead tax credit.

80.1(1) *Application for credit.*

a. No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. (1946 O.A.G. 37) Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year and, in addition, the claimant or the claimant's spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. If the credit is disallowed and the claimant failed to give written notice to the assessor that the claimant ceased to use the property as a homestead, a civil penalty equal to 5 percent of the amount of the disallowed credit shall be assessed against the claimant in addition to the amount of credit allowed. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the homestead tax credit may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for homestead tax credit. If it is the opinion of the assessor that a homestead tax credit should not be allowed, the assessor shall accept the application for credit and recommend disallowance.

e. If the owner of the homestead is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for homestead tax credit may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

f. If a person makes a false application for credit with fraudulent intent to obtain the credit, the person is guilty of a fraudulent practice and the claim shall be disallowed. If the credit has been paid, the amount of the credit plus a penalty equal to 25 percent of the amount of the disallowed credit and interest shall be collected by the county treasurer.

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op. St. Bd. Tax Rev. No. 212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

80.1(2) *Eligibility for credit.*

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (1944 O.A.G. 26; Letter O.A.G. October 18, 1941)

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, other than a family farm corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs,* State Board of Tax Review, No. 24, February 1, 1972)

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned his or her equity in the homestead property as security for a loan. (1960 O.A.G 263)

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a nonprofit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193)

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434)

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305)

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45) However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773.

l. An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

80.1(3) *Disabled veteran's homestead tax credit.*

a. Qualification for credit. The disabled veteran tax credit may be claimed by any of the following owners of homestead property:

(1) A veteran who acquired homestead property under 38 U.S.C. Sections 21.801 and 21.802 or Sections 2101 and 2102.

(2) A veteran, as defined in Iowa Code section 35.1, with a permanent service-connected disability rating of 100 percent, as certified by the U.S. Department of Veterans Affairs, or a permanent and total disability rating based on individual unemployability that is compensated at the 100 percent disability rate, as certified by the U.S. Department of Veterans Affairs.

(3) A former member of the national guard of any state who otherwise meets the service requirements of Iowa Code section 35.1(2)*"b"*(2) or 35.1(2)*"b"*(7), with a permanent service-connected disability rating of 100 percent, as certified by the U.S. Department of Veterans Affairs, or a permanent and total disability rating based on individual unemployability that is compensated at the 100 percent disability rate, as certified by the U.S. Department of Veterans Affairs.

(4) An individual who is a surviving spouse or a child and who is receiving dependency and indemnity compensation pursuant to 38 U.S.C. Section 1301 et seq., as certified by the U.S. Department of Veterans Affairs.

b. Application for credit. Except for the 2014 assessment year, an application for the disabled veteran tax credit must be filed with the local assessor on or before July 1 of the assessment year. Any supporting documentation required by the assessor must be current within the previous 12 months of the date on which the application is filed. The filing deadline for applications for the 2014 assessment year

shall be July 1, 2015. The credit applicable to assessment year 2014 shall be allowed only on a homestead which the owner occupied on July 1, 2014, and for at least six months during the 2014 assessment year.

c. Amount of credit. The amount of the credit is equal to the entire amount of tax payable on the homestead.

d. Continuance of credit. The credit shall continue to the estate or surviving spouse and child who are the beneficiaries of an owner described in subparagraph 80.1(3)*"a"*(1), (2), or (3) if the surviving spouse remains unmarried. If an owner or beneficiary of an owner ceases to qualify for the credit, the owner or beneficiary must notify the assessor of the termination of eligibility.

80.1(4) *Application of credit.*

a. Except as provided in 80.1(1)*"a,"* if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed on or after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit. However, when the property is transferred as part of a distribution made pursuant to Iowa Code chapter 598 (Dissolution of Marriage) the transferee spouse retaining ownership and occupancy of the homestead is not required to refile for the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. (1938 O.A.G. 288)

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. (1962 O.A.G. 435)

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission,* 235 Iowa 222, 16 N.W.2d 215)

f. If the homestead property contains two dwelling houses and one of the dwelling houses and a portion of the land is sold after a valid application for homestead tax credit has been filed, the assessor shall prorate the assessment so as to allow the seller a homestead tax credit on that portion of the property which is retained and also allow the purchaser a homestead tax credit on that portion of the property which is purchased, provided the purchaser files a valid application for homestead tax credit by July 1 of the claim year.

g. A homestead tax credit shall be allowed against the assessed value of the land on which a dwelling house did not exist as of January 1 of the year in which the credit is claimed provided a dwelling house is owned and occupied by the claimant on July 1 of that year.

h. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the credit estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794.

[**ARC 2507C**, IAB 4/27/16, effective 6/1/16]

701—80.2(22,35,426A) Military service tax exemption.

80.2(1) *Application for exemption.*

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the military service tax exemption may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for a military service tax exemption. If it is the opinion of the assessor that a military service tax exemption should not be allowed, the assessor shall accept the application for exemption and recommend disallowance.

e. If the owner of the property is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for military service tax exemption may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

80.2(2) *Eligibility for exemption.*

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. (1942 O.A.G. 79)

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. (1932 O.A.G. 242; 1942 O.A.G. 79)

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active duty for less than 18 months must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code Supplement section 35.1. If former members were on active duty for at least 18 months, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, nor is there a minimum number of days a former member of the armed forced of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

d. With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve, a military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission,* 247 Iowa 530, 74 N.W.2d 563, 567-1956; *In re Douglas A. Coyle,* State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

e. As used in Iowa Code subsection 426A.12(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71)

g. The person claiming a military service tax exemption must be an Iowa resident. However, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified individual enumerated in Iowa Code section 426A.12. (1942 O.A.G. 140)

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125)

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is held until expiration of the life estate. (1946 O.A.G. 155)

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450)

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961)

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as the surviving spouse is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44)

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. 61-8-10(L))

n. No military service tax exemption shall be allowed on property that is owned by a corporation, except for a family farm corporation where a shareholder occupies a homestead as defined in Iowa Code section 425.11(1), partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441)

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on the property providing the nonowner spouse's exemption is not claimed on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

q. A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263)

r. A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434)

s. A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. 78-2-5; 1979 O.A.G. 79-12-2)

t. The person claiming the exemption shall have recorded in the office of the county recorder evidence of property ownership and either the military certificate of satisfactory service or, for a current member of the Iowa national guard or a member of the reserve forces of the United States, the veteran's retirement points accounting statement issued by the armed forces of the United States or the state adjutant general. The military certificate of satisfactory service shall be considered a confidential record pursuant to Iowa Code section 22.7.

u. An heir of property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the military exemption.

80.2(3) *Application of exemption.*

a. When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission,* 235 Iowa 222, 16 N.W.2d 215)

b. If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

c. A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (1938 O.A.G. 288)

d. A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78)

e. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A.
[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.3(427) Pollution control and recycling property tax exemption.

80.3(1) To secure an exemption for pollution control or recycling property, an application must be filed with the assessing authority on or before February 1 of the assessment year for which the exemption is first claimed. It is the responsibility of the taxpayer to secure the necessary certification from the department of natural resources in sufficient time to file the application for exemption with the assessing authority on or before February 1. An exemption for new pollution control or recycling property can be secured by filing an application with the assessing authority by February 1 of the assessment year following the year in which the property is installed or constructed. If no application is timely filed in that year, the property will first qualify for exemption in any subsequent year in which an application is filed with the assessing authority on or before February 1.

80.3(2) In the event February 1 falls on either a Saturday or Sunday, applications for the exemption may be filed the following Monday.

80.3(3) In the event February 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

80.3(4) No exemption shall be allowed unless the application is signed by the owner of the property or the owner's qualified designee.

80.3(5) An assessor may not refuse to accept an application for a pollution control exemption if timely filed and if the necessary certification has been obtained from the department of natural resources.

80.3(6) The sale, transfer, or lease of property does not affect its eligibility for exemption as long as the requirements of Iowa Code subsection 427.1(19) and rule 701—80.3(427), Iowa Administrative Code, are satisfied.

80.3(7) No exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state or that the primary use of the property is for recycling. Recycling property is property used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material.

80.3(8) In the event that qualified property is assessed as a unit with other property not having a pollution control or recycling function, the exemption shall be limited to the increase in the assessed valuation of the unit which is attributable to the pollution control or recycling property.

EXAMPLE

Valuation of unit with pollution control or recycling property	$100,000
Valuation of unit without pollution control or recycling property	50,000
Allowable amount of exemption	$ 50,000

80.3(9) The value of property to be exempt from taxation shall be the fair and reasonable market value of such property as of January 1 of each year for which the exemption is claimed, rather than the original cost of such property.

80.3(10) An assessor shall not exempt property from taxation without first assessing the property for taxation and subsequently receiving an application for tax exemption from the taxpayer.

This rule is intended to implement Iowa Code Supplement section 427.1(19) as amended by 2006 Iowa Acts, House File 2633, and Iowa Code sections 427.1(18) and 441.21(1)(i).
[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.4(427) Low-rent housing for the elderly and persons with disabilities.

80.4(1) As used in Iowa Code subsection 427.1(21), the term "nonprofit organization" means an organization, no part of the net income of which is distributable to its members, directors or officers.

80.4(2) As used in Iowa Code subsection 427.1(21), the term "low-rent housing" means housing the rent for which is less than that being received or which could be received for similar properties on the open market in the same assessing jurisdiction. Federal rent subsidies received by the occupant shall be excluded in determining whether the rental fee charged meets this definition.

80.4(3) As used in Iowa Code subsection 427.1(21), the term "elderly" means any person at least 62 years of age.

80.4(4) As used in Iowa Code subsection 427.1(21), the term "persons with physical or mental disabilities" means a person whose physical or mental condition is such that the person is unable to engage in substantial gainful employment.

80.4(5) The exemption granted in Iowa Code subsection 427.1(21) extends only to property which is owned and operated, or controlled, by a nonprofit organization recognized as such by the Internal Revenue Service. Property owned and operated, or controlled, by a private person is not eligible for exemption under Iowa Code subsection 427.1(21).

80.4(6) The income of persons living in housing eligible for exemption under Iowa Code subsection 427.1(21) shall not be considered in determining the property's taxable status.

80.4(7) An organization seeking an exemption under Iowa Code subsection 427.1(21) shall file a statement with the local assessor pursuant to Iowa Code subsection 427.1(14).

80.4(8) The exemption authorized by Iowa Code subsection 427.1(21) extends only until the final payment due date of the borrower's original low-rent housing development mortgage on the property or until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever is sooner. If the original mortgage is refinanced, the exemption shall apply only until what would have been the final payment due date under the original mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner. This exemption for refinanced projects applies to those projects refinanced on or after January 1, 2005.

80.4(9) In complying with the requirements of Iowa Code subsection 427.1(14), the provisions of rule 701—78.4(427) shall apply.

80.4(10) In determining the taxable status of property for which an exemption is claimed under Iowa Code subsection 427.1(21), the appropriate assessor shall follow rules 701—78.1(427,441) to 701—78.5(427).

80.4(11) If a portion of a structure is used to provide low-rent housing units to elderly persons and persons with disabilities and the other portion is used to provide housing to persons who are not elderly or disabled, the exemption for the property on which the structure is located shall be limited to that portion of the structure used to provide housing to the elderly and disabled. Vacant units and projects under construction that are designated for use to provide housing to elderly and disabled persons shall be considered as being used to provide housing to elderly and disabled persons. The valuation exempted shall bear the same relationship to the total value of the property as the area of the structure used to provide low-rent housing for the elderly and persons with disabilities bears to the total area of the structure unless a better method for determining the exempt valuation is available. The valuation of the land shall be exempted in the same proportion.

80.4(12) The property tax exemption provided in Iowa Code subsection 427.1(21) shall be based upon occupancy by elderly or persons with disabilities as of July 1 of the assessment year. However,

nothing in this subrule shall prevent the taxation of such property in accordance with the provisions of Iowa Code section 427.19.

This rule is intended to implement Iowa Code section 427.1(14) and Supplement section 427.1(21).
[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.5(427) Speculative shell buildings.

80.5(1) *Authority of city council and board of supervisors.* A city council or county board of supervisors may enact an ordinance granting property tax exemptions for value added as a result of new construction of speculative shell buildings or additions to existing buildings or structures, or may exempt the value of an existing building or structure being reconstructed or renovated and the value of the land on which the building or structure is located, if the reconstruction or renovation constitutes complete replacement or refitting of an existing building or structure owned by community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499A, or for-profit entities. See Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419, for definitions. The value added exemption for new construction includes reconstruction and renovation constituting complete replacement or refitting of existing buildings and structures if the reconstruction or renovation is required due to economic obsolescence, or to implement industry standards in order to competitively manufacture or process products, or to market a building or structure as a speculative shell building. The exemption for reconstruction or renovation not constituting new construction does not have to meet these requirements but has to meet only the requirements set forth in the definition of a speculative shell building. The council or board in the ordinance authorizing the exemption shall specify if the exemption will be allowed to community development organizations, not-for-profit cooperative associations under Iowa Code chapter 499B, or for-profit entities, and the length of time the exemption is to be allowed.

80.5(2) *Eligibility for exemption.* The value added by new construction, reconstruction, or renovation and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a tax exemption becomes effective is not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect on February 1 of that calendar year. This subrule does not apply to new construction projects having received prior approval. For reconstruction and renovation projects not constituting new construction, the ordinance authorizing the exemption must be in effect by February 1 of the year the project commences for the exemption to be allowable in the subsequent assessment year.

80.5(3) *Application for exemption.*

a. A community development organization, not-for-profit cooperative association, or for-profit entity must file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year in which the value added for new construction is first assessed for the exemption to be allowable for that assessment year. For reconstruction and renovation projects not constituting new construction, an application for exemption must be filed by February 1 of the assessment year in which the project commences for the exemption to be allowable the following assessment year. If approved, no application for exemption is required to be filed in subsequent years for the value added exemption or the reconstruction or renovation exemption not constituting new construction. An application cannot be filed if a valid ordinance has not been enacted. If an application is not filed by February 1 of the year in which the value added for new construction is first assessed, the organization, association, or entity cannot receive, in subsequent years, the exemption for that value added. However, if the organization, association, or entity has received prior approval, the application must be filed by February 1 of the year in which the total value added for the new construction is first assessed.

b. If February 1 falls on either a Saturday or Sunday, applications for exemption may be filed the following Monday.

c. Applications submitted by mail must be accepted if postmarked on or before February 1 or, if February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday is acceptable.

80.5(4) *Prior approval.* To obtain prior approval for a project, the proposal of the organization, association, or entity must be approved by a specific ordinance addressing the proposal and passed by

the city council or board of supervisors. The original ordinance providing for the exemption does not constitute the granting of prior approval for a project. If an organization, association, or entity has obtained a prior approval ordinance from a city council or board of supervisors, the exemption for new construction cannot be obtained until the year in which all value added for the completed project is first assessed. Reconstruction and renovation projects constituting new construction must receive prior approval to qualify for exemption. Reconstruction and renovation projects that do not constitute new construction need not receive prior approval.

80.5(5) *Termination of exemption.* The exemption continues until the property is leased or sold, the time period for the exemption specified in the ordinance elapses, or the exemption is terminated by ordinance of the city council or board of supervisors. If the ordinance authorizing the exemption is repealed, all existing exemptions continue until their expiration and any projects having received prior approval for exemption for new construction are to be granted an exemption upon completion of the project. If the shell building or any portion of the shell building is leased or sold, the exemption for new construction shall not be allowed on that portion of the shell building leased or sold in subsequent years. If the shell building or any portion of the shell building is leased or sold, the exemption for reconstruction or renovation not constituting new construction shall not be allowed on that portion of the shell building leased or sold and a proportionate share of the land on which the shell building is located in subsequent years.

This rule is intended to implement Iowa Code Supplement section 427.1(27) as amended by 2008 Iowa Acts, Senate File 2419.

701—80.6(427B) Industrial property tax exemption.

80.6(1) *Authority of city council and board of supervisors.* A partial exemption ordinance enacted pursuant to Iowa Code section 427B.1 shall be available to all qualifying property. A city council or county board of supervisors does not have the authority to enact an ordinance granting a partial exemption to only certain qualifying properties (1980 O.A.G. 639). As used in this rule, the term "qualifying property" means property classified and assessed as real estate pursuant to 701—subrule 71.1(6), warehouses and distribution centers, research service facilities, and owner-operated cattle facilities. "Warehouse" means a building or structure used as a public warehouse for the storage of goods pursuant to Iowa Code sections 554.7101 to 554.7603, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail. "Distribution center" means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods. A "research service facility" is one or more buildings devoted primarily to research and development activities or corporate research services. Research and development activities include, but are not limited to, the design and production or manufacture of prototype products for experimental use. A research service facility does not have as its primary purpose the providing of on-site services to the public. "Owner-operated cattle facility" means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.

80.6(2) *Prior approval.* Only upon enactment of a partial property tax exemption ordinance in accordance with Iowa Code section 427B.1 may a city council or board of supervisors enact a prior approval ordinance for pending individual projects in accordance with Iowa Code section 427B.4. To obtain prior approval for a project, a property owner's proposal must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the partial exemption does not constitute the granting of prior approval for a project. Also, prior approval for a project can only be granted by ordinance of the city council or board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project. If a taxpayer has obtained a prior approval ordinance from a city council or board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. (1980 O.A.G. 639)

80.6(3) *Repeal of ordinance.* A new construction project having received prior approval for exemption in accordance with subrule 80.6(2) shall be granted such exemption upon completion of the project even if the city council or board of supervisors subsequently repeals the ordinance passed in accordance with Iowa Code section 427B.1. (1980 O.A.G. 639)

80.6(4) *Annexation of property previously granted exemption.* A partial property tax exemption which has been granted and is in existence shall not be discontinued or disallowed in the event that the property upon which such exemption has been previously granted is located in an area which is subsequently annexed by a city or becomes subject to the jurisdiction of a county in which an ordinance has not been passed by the city council or county board of supervisors allowing such exemptions within that jurisdiction. The existing exemption shall continue until its expiration.

80.6(5) *Eligibility for exemption.*

a. The value added by new construction or reconstruction and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a partial property tax exemption becomes effective, and new machinery and equipment assessed as real estate acquired and utilized prior to January 1 of the calendar year in which the ordinance or resolution becomes effective, are not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect prior to February 1 of that calendar year and if all other eligibility and application requirements are satisfied.

EXAMPLE 1: A $1,000,000 new construction project on qualifying property is begun in July 1984. $500,000 in value of the partially completed project is completed in 1984 and first assessed as of January 1, 1985. The project is completed in 1985 adding an additional value of $500,000 which is first assessed as of January 1, 1986, bringing the total assessed value of the completed project to $1,000,000 as of the January 1, 1986, assessment.

A city ordinance authorizing the partial exemption program is passed and becomes effective January 15, 1987. This project is not eligible for a property tax exemption for any value added as a result of the new construction project.

EXAMPLE 2: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on January 15, 1986, the $500,000 in assessed value added as of the January 1, 1986, assessment is eligible for the partial exemption if an application is filed with the assessor between January 1 and February 1, 1986, inclusive.

EXAMPLE 3: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on February 15, 1986. Since the statutory application filing deadline is February 1, no value added and first assessed as of January 1, 1986, is eligible for a partial exemption. The project in this example would receive no exemption for any value added as a result of the new construction.

This subrule does not apply to new construction projects having received prior approval in accordance with subrule 80.6(2).

b. New machinery and equipment assessed as real estate shall be eligible for partial exemption only if used primarily in the manufacturing process. For example, computer equipment used primarily to maintain payroll records would not be eligible for exemption, whereas computer equipment utilized primarily to control or monitor actual product assembly would be eligible.

c. If any other property tax exemption is granted for the same assessment year for all or any of the property which has been granted a partial exemption, the partial property tax exemption shall be disallowed for the year in which the other exemption is actually received.

d. Only qualifying property is eligible to receive the partial property tax exemption (O.A.G. 81-2-18).

e. A taxpayer cannot receive the partial property tax exemption for industrial machinery or equipment if the machinery or equipment was previously assessed in the state of Iowa. Industrial machinery and equipment previously used in another state may qualify for the partial exemption if all criteria for receiving the partial exemption are satisfied.

f. Industrial machinery and equipment is eligible to receive the partial property tax exemption if it changes the existing operational status other than by merely maintaining or expanding the existing

operational status. This rule applies whether the machinery and equipment is placed in a new building, an existing building, or a reconstructed building. If new machinery is used to produce an existing product more efficiently or to produce merely a more advanced version of the existing product, the existing operational status would only be maintained or expanded and the machinery would not be eligible for the exemption. However, if the new machinery produces a product distinctly different from that currently produced, the existing operational status has been changed.

80.6(6) *Application for exemption.*

a. An eligible property owner shall file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year for which the value added is first assessed for tax purposes. The amount of "actual value added" shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. An application cannot be filed if a valid ordinance has not been enacted in accordance with Iowa Code section 427B.1 (O.A.G. 82-3-5). If an application is not filed by February 1 of the year for which the value added is first assessed, the taxpayer cannot receive in subsequent years the partial exemption for that value added (O.A.G. 82-1-17). However, if a taxpayer has received prior approval in accordance with Iowa Code section 427B.4 and subrule 80.6(2), the application is to be filed by not later than February 1 of the year for which the total value added is first assessed as the approved completed project.

b. In the event that February 1 falls on either a Saturday or Sunday, applications for the industrial property tax exemption may be filed the following Monday.

c. Applications submitted by mail shall be accepted if postmarked on or before February 1, or in the event that February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday shall be accepted.

80.6(7) *Change in use of property.* If property ceases to be used as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which the change in use takes place or for subsequent years. If property under construction ceases to be constructed for use as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which this cessation occurs. However, such a change in the use of the property does not affect the validity of any partial exemption received for the property while it was used or under construction as qualifying property.

This rule is intended to implement Iowa Code sections 427B.1 to 427B.7.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.7(427B) Assessment of computers and industrial machinery and equipment.

80.7(1) Computers and industrial machinery and equipment are to be assessed at 30 percent of the property's net acquisition cost through the 1998 assessment year, 22 percent of the net acquisition cost in the 1999 assessment year, 14 percent of the net acquisition cost in the 2000 assessment year, and 6 percent of the net acquisition cost in the 2001 assessment year. The property will be exempt from tax beginning with the 2002 assessment year.

Computers and industrial machinery and equipment acquired after December 31, 1993, and not previously assessed in Iowa, are exempt from tax.

Computers and industrial machinery and equipment assessed pursuant to Iowa Code section 427B.17 are not eligible to receive the partial property tax exemption under Iowa Code sections 427B.1 to 427B.7.

80.7(2) Computers assessed under Iowa Code section 427A.1(1)*"j"* are limited to the percent of the computer's net acquisition cost as provided in Iowa Code section 427B.17 regardless of the classification of the real estate in which the computer is located.

80.7(3) For computers and industrial machinery and equipment, the net acquisition cost shall be the acquired cost of the property.

80.7(4) Computation of taxpayer's value. Assume a machine is acquired at a net acquisition cost of $10,000. Assume also that the actual depreciated value of the machine is $9,000. The value on which taxes would be levied would be limited to $3,000 ($10,000 × .30). This percent will change over the course of the phaseout of the tax.

80.7(5) If all or a portion of the value of property assessed pursuant to Iowa Code section 427B.17 is eligible to receive an exemption from taxation, the amount of value to be exempt shall be subtracted from the net acquisition cost of the property before the taxpayer's value prescribed in Iowa Code section 427B.17 is determined. For example, if property has a net acquisition cost of $30,000 and is eligible to receive a pollution exemption for $15,000 of value, the taxable net acquisition cost would be $15,000 and the taxpayer's value would be $4,500 ($15,000 × .30). This percent will change over the course of the phaseout of the tax.

80.7(6) In the event the actual depreciated fair market value of property assessed pursuant to Iowa Code section 427B.17 is less than the valuation determined as a percent of the net acquisition cost of the property as provided in Iowa Code section 427B.17, the taxpayer's assessed value would be equal to the actual depreciated fair market value of the property.

80.7(7) Property ineligible for phaseout and exemption. Computers and industrial machinery and equipment, the taxes on which are used to fund a new jobs training project approved on or before June 30, 1995, do not qualify for the exemption provided in Iowa Code section 427B.17(2) nor the phaseout contained in Iowa Code section 427B.17(3) until the assessment year following the calendar year in which the funding obligations have been retired, refinanced, or refunded. At that time, the property will be subject to phaseout if acquired prior to January 1, 1994, or exempt from tax if acquired after December 31, 1993, and not previously assessed in Iowa. See subrule 80.7(1). The community college must notify the assessor by February 15 of each assessment year if the community college will be using a taxpayer's machinery and equipment taxes to finance a project that year. In any year in which the community college does rely on a taxpayer's machinery and equipment taxes for funding, the phaseout and exemption will not apply to that taxpayer that year.

80.7(8) County replacement.

a. For fiscal years beginning July 1, 1996, and ending June 30, 2001, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If there is an increase in valuation (the January 1, 1994, value is less), there will be no replacement for that fiscal year.

b. For fiscal years beginning July 1, 2001, and ending June 30, 2004, the county replacement amount shall be equal to the difference between the assessed value of computers and industrial machinery and equipment as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, less, if any, the increase in the assessed value of commercial and industrial property as of January 1 of the previous calendar year and the assessed value of such property as of January 1, 1994, multiplied by the tax levy rate for that fiscal year. If the calculation results in a negative amount, there will be no replacement for that fiscal year.

c. The replacement amounts shall be determined for each taxing district and a replacement claim summarizing the total amounts for the county prepared and submitted by the county auditor to the department of revenue by September 1 of each year. The department shall pay the replacement amount to the county treasurer in September and March of each year.

d. No replacement is allowable if a community college elects not to fund a new jobs training project with a tax on computers and industrial machinery and equipment.

This rule is intended to implement Iowa Code chapter 427B as amended by 2003 Iowa Acts, Senate File 453.

701—80.8(404) Urban revitalization partial exemption.

80.8(1) *Area designated.* An area containing only one building or structure cannot be designated as an urban revitalization area (1980 O.A.G. 786).

80.8(2) *Prior approval.* To obtain prior approval for a project, a property owner's proposal must be approved by a specific resolution addressing the proposal and passed by the city council or county board of supervisors. The original ordinance providing for the urban revitalization area does not constitute the granting of prior approval for any particular project. Also, prior approval for a project can only be

granted by resolution of the city council or county board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project.

80.8(3) *Eligibility for exemption.* Improvements made as a result of a project begun more than one year prior to a city's or county's adoption of an urban revitalization ordinance are not eligible to receive the partial exemption even though some of the improvements are added during the time the area was designated as an urban revitalization area. For a project commenced within one year prior to the adoption of an urban revitalization ordinance, the partial exemption can be allowed only for those improvements constructed on or after the effective date of the ordinance. (1982 O.A.G. 358)

80.8(4) *Minimum value added.* Once the minimum value added required by Iowa Code section 404.3(7) has been assessed, any amount of additional value added to the property in subsequent years is eligible for the partial exemption. The value added subject to partial exemption for the first year for which an exemption is claimed and allowed shall include value added to the property for a previous year even if the value added in the previous year was not by itself sufficient to qualify for the partial exemption.

For example, assume that an urban revitalization project is begun on commercial property having an actual value of $50,000 as of January 1, 1984. As a result of improvements made during 1984, the actual value of the property as of January 1, 1985, is determined to be $55,000. Additional improvements made during 1985 increase the actual value of the property to $70,000 for the 1986 assessment. In this example, no partial exemption can be allowed for 1985 since the value added for that year is less than 15 percent of the actual value of the property prior to construction of the improvements. A partial exemption can be allowed for 1986 and subsequent years for the $20,000 value added in both 1985 and 1986, providing a valid application for the partial exemption is filed between January 1, 1986, and February 1, 1986, inclusive.

80.8(5) *Application for partial exemption.*

a. Prior approval. If a taxpayer has secured a prior approval resolution from the city council or the county board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. A partial exemption can be allowed only if an application is filed between January 1 and February 1, inclusive, of the year in which all value added for the project is first assessed. If an application is not filed during that period, no partial exemption can be allowed for that year or any subsequent year. The submission to the city council or the county board of supervisors of a proposal to receive prior approval does not by itself constitute an application for the partial exemption.

For example, assume a city council or county board of supervisors approves a prior approval resolution in April 1984 for a revitalization project to be completed in September 1986. Assuming all construction on the project is completed in 1986, no partial exemption can be allowed until 1987 since that would be the year in which all value added for the project is first assessed. To receive the partial exemption, a valid application would have to be filed between January 1, 1987, and February 1, 1987, inclusive.

b. No prior approval. If a project has not received a prior approval resolution, a taxpayer has the option of receiving the partial exemption beginning with any year in which value is added to the property or waiting until all value added to the property is first assessed in its entirety. To secure a partial exemption prior to the completion of the project, an application must be filed between January 1 and February 1, inclusive, in each year for which the exemption is claimed.

For example, assume a revitalization project is begun in June 1984 and completed in September 1985, that no prior approval resolution for the project has been approved, and that a ten-year exemption period has been selected. Assume further that as a result of construction on the project, value is added for the assessment years 1985 and 1986. If an application is filed between January 1, 1985, and February 1, 1985, inclusive, a partial exemption could be allowed for the value added for 1985 beginning with the 1985 assessment and ending with the 1994 assessment. If an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the value added for 1986 beginning with the 1986 assessment and ending with the 1995 assessment. The partial exemption allowable for the years 1986 through 1995 would be against the value added for 1986 as a result of improvements made during calendar year 1985.

In the example above, the taxpayer may elect not to file an application for the partial exemption in 1985. In this situation, if an application is filed between January 1, 1986, and February 1, 1986, inclusive, a partial exemption could be allowed for the total value added for 1985 and 1986 and would apply to assessments for the years 1986 through 1995.

c. Filing deadline. If February 1 falls on a Saturday or Sunday, an application for the partial exemption may be filed the following Monday. Applications submitted by mail must be postmarked on or before February 1, or on or before the following Monday if February 1 falls on a Saturday or Sunday.

d. Extended filing deadline. The exemption is allowable for the total number of years in the exemption schedule if a claim for exemption is filed within two years of the original February 1 filing deadline. The city council or county board of supervisors may by resolution provide that an application for the partial exemption can be filed by February 1 of any assessment year the area is designated as an urban revitalization area. The exemption shall be allowed for the same number of years remaining in the exemption schedule selected as would have been remaining had the claim for exemption been timely filed.

80.8(6) *Value exempt.* The partial exemption allowed for a year in which an application is filed shall apply to the value added and first assessed for that year and any value added to the project and assessed for a preceding year or years and for which a partial exemption had not been received.

80.8(7) *Minimum assessment.* The partial exemption shall apply only to the value added in excess of the actual value of the property as of the year immediately preceding the year in which value added was first assessed. If the actual value of the property is reduced for any year during the period in which the partial exemption applies, any reduction in value resulting from the partial exemption shall not reduce the assessment of the property below its actual value as of January 1 of the assessment year immediately preceding the year in which value added was first assessed. This subrule applies regardless of whether the reduction in actual value is made by the assessor, the board of review, a court order, or an equalization order of the department of revenue.

80.8(8) *Value added.* As used in this rule, the term "value added" means the amount of increase in the actual value of real estate directly attributable to improvements made as part of a revitalization project. The amount of "actual value added" shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. "Value added" does not include any increase in actual (market) value attributable to that portion of the real estate assessed prior to the year in which revitalization improvements are first assessed. The sales price of the property rather than the assessed value of the property may be used in determining the percentage increase required to qualify for exemption if the improvements were begun within one year of the date the property was purchased.

80.8(9) *Repeal of ordinance.* An urban revitalization project which has received proper prior approval shall be eligible to receive the partial exemption following completion of the project even if the city council or county board of supervisors subsequently repeals the urban revitalization ordinance before improvements in the project are first assessed (1980 O.A.G. 639).

This rule is intended to implement Iowa Code chapter 404 as amended by 2002 Iowa Acts, House File 2622.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09; **ARC 2657C**, IAB 8/3/16, effective 9/7/16]

701—80.9(427C,441) Forest and fruit-tree reservations.

80.9(1) *Determination of eligibility for exemption.* Property for which an application for exemption as a forest or fruit-tree reservation has been filed shall be inspected by the assessor or county conservation board. The county board of supervisors designates whether all inspections in the county are to be made by the assessor, including any city assessor, or by the county conservation board. When appropriate, aerial photographs may be used in place of an on-site inspection of the property. The assessment or exemption of the property is to be based upon criteria established by the state conservation commission and findings obtained by the inspection of the property or the examination of aerial photographs of the property.

80.9(2) *Application for exemption.*

a. An application for exemption must be filed with the appropriate assessor between January 1 and February 1, inclusive, of the assessment year for which the exemption is first claimed. If the inspection of the property is to be made by the county conservation board, the assessor shall forward the application to the board for its recommendation. Once the application has been accepted, the exemption is applicable to the current and subsequent assessment years and no further application shall be required so long as the property remains eligible for the exemption.

b. If February 1 falls on a Saturday or Sunday, an application for exemption may be filed the following Monday.

c. An application shall be considered to be timely filed if postmarked on or before February 1 or the following Monday if February 1 falls on a Saturday or Sunday.

80.9(3) *Notification to property owner.* If the property is to be inspected by the county conservation board, the board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15. The assessor shall notify the claimant by April 15 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant's right of appeal to the local board of review.

80.9(4) *Appeal of eligibility determination.* If a property for which a claim for exemption as a forest or fruit-tree reservation is assessed for taxation, the property owner may appeal the assessment to the board of review under Iowa Code section 441.37.

80.9(5) *Valuation of property.* For each assessment year for which property is exempt as a forest or fruit-tree reservation, the assessor shall determine the actual value and classification that would apply to the property were it assessed for taxation that year. In any year for which the actual value or classification of property so determined is changed, the assessor shall notify the property owner pursuant to Iowa Code sections 441.23, 441.26 and 441.28.

80.9(6) *Recapture tax.*

a. Assessment of property. If the county conservation board or the assessor determines a property has ceased to meet the eligibility criteria established by the state conservation commission, the property shall be assessed for taxation and subject to the recapture tax. The property shall be subject to taxes levied against the assessment made as of January 1 of the calendar year in which the property ceased to qualify for exemption. In addition, the property shall be subject to the tax which would have been levied against the assessment made as of January 1 of each of the five preceding calendar years for which the property received an exemption.

b. Assessment procedure. If the determination that a property has ceased to be eligible for exemption is made by the assessor by April 15, the assessor shall notify the property owner of the assessment as of January 1 of the year in which the determination is made in accordance with Iowa Code sections 441.23, 441.26, and 441.28. The assessment of the property for any of the five preceding years and for the current year, if timely notice by April 15 cannot be given, shall be by means of an omitted assessment as provided in Iowa Code section 443.6 (*Talley v. Brown,* 146 Iowa 360, 125 N.W. 243(1910)). Appeal of the omitted assessment may be taken pursuant to Iowa Code sections 443.7 and 443.8.

c. Computation of tax. The county auditor shall compute the tax liability for each year for which an assessment has been made pursuant to subrule 80.9(6), paragraph *"b."* The tax liability shall be the amount of tax that would have been levied against each year's assessment had the property not received the exemption. In computing the tax, the valuations established by the assessor shall be adjusted to reflect any equalization order or assessment limitation percentage applicable to each year's assessment.

d. Entry on tax list. The tax liability levied against assessments made as of January 1 of any year preceding the calendar year in which the property ceased to qualify for exemption shall be entered on the tax list for taxes levied against all assessments made as of January 1 of the year immediately preceding the calendar year in which the property ceased to qualify for exemption. However, if those taxes have

already been certified to the county treasurer, the recapture taxes shall be entered on the tax list for taxes levied against assessments made as of January 1 of the year in which the property ceased to qualify for exemption. The tax against the assessment made as of January 1 of the year in which the property ceased to qualify for exemption shall be levied at the time taxes are levied against all assessments made as of that date.

e. Delinquencies. Recapture taxes shall not become delinquent until the time when all other unpaid taxes entered on the same tax list become delinquent.

f. Exceptions to recapture tax.

(1) Fruit-tree or forest reservations. Property which has received an exemption as a fruit-tree or forest reservation is not subject to the recapture tax if the property is maintained as a fruit-tree or forest reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree or forest reservation.

(2) Property which has been owned by the same person or the person's direct descendants or antecedents for at least ten years prior to the time the property ceases to qualify for exemption shall not be subject to the recapture tax.

(3) Property described in subparagraphs 80.9(6)*"f"*(1) and 80.9(6)*"f"*(2) is subject to assessment as of January 1 of the calendar year in which the property ceases to qualify for exemption.

This rule is intended to implement Iowa Code chapter 427C as amended by 2001 Iowa Acts, House File 736, and Iowa Code section 441.22.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.10(427B) Underground storage tanks.

80.10(1) *Authority of city councils and county boards of supervisors.* A city council or county board of supervisors may provide by ordinance to grant property tax credits to small business owners for payment of underground storage tank cleanup costs. The ordinance is to designate the period of time over which the credit is to be granted (not to exceed ten years) and the percentage of credit to be granted each year. If the ordinance is repealed, existing credits are to continue through their designated expiration date. A small business means a business with gross receipts of less than $500,000 per year.

80.10(2) *Application for credit.* The small business owner is required to file an application for credit with the respective city council or county board of supervisors by September 30 of the year following the calendar year in which cleanup costs were paid and each succeeding year the credit is applicable. The application for credit shall be prescribed by the director of revenue and shall contain, but not be limited to, the small business owner's cleanup costs and gross receipts for the most recent tax year.

80.10(3) *Allowance of credit.* Credits granted by a county board of supervisors are applicable only to property located outside the corporate limits of a city and credits granted by a city council are only applicable to property located within the corporate limits of the city. The amount of the credit granted cannot exceed the small business owner's cleanup costs nor the amount of city or county taxes paid on the property where the underground storage tank is located for any fiscal year the credit is applicable. Upon approval of the application for credit, the city council or county board of supervisors shall direct its city clerk or county treasurer to reimburse the small business owner in the amount of the designated credit.

This rule is intended to implement Iowa Code sections 427B.20 to 427B.22.

701—80.11(425A) Family farm tax credit.

80.11(1) *Eligibility for credit.* Generally, the family farm tax credit is only intended to benefit tracts of agricultural land that are owned by certain individuals or enumerated legal entities if the owner or other specified persons are actively engaged in farming.

a. In order for a tract of land to qualify for the family farm tax credit, the following three criteria must be satisfied:

(1) The tract of land must be an "eligible tract of agricultural land" as defined in Iowa Code subsection 425A.2(5). This means the tract must be ten acres or more or contiguous to a tract of more than ten acres and used in good faith for agricultural or horticultural purposes. More than half of

the acres in the tract must be devoted to the production of crops or livestock by a designated person. Contiguous tracts under the same legal ownership and located within the same county are considered one tract. Only tracts of land that are classified as agricultural real estate qualify for the credit.

(2) The tract of land must be owned by:

1. An individual or persons related or formerly related to each other, or
2. A partnership where all the partners are related or formerly related to each other, or
3. A family farm corporation as defined in Iowa Code subsection 9H.1(8), or
4. An authorized farm corporation as defined in Iowa Code subsection 9H.1(3).

The ownership criteria must be met on June 30 of the fiscal year prior to the fiscal year in which the application for credit is filed. For example, the ownership criteria must be met on June 30, 1990, for applications for credit filed in 1990.

(3) A designated person must be "actively engaged in farming" the tract during the fiscal year prior to the fiscal year in which the application for credit is filed. If the tract is owned by an individual or related persons, the designated person who is actively engaged in farming must be an owner of the tract, the owner's spouse, or the owner's relative within the third degree of consanguinity or their spouses. This includes the owner's child, stepchild, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew or their spouses. The only step relative that may qualify as a designated person is a stepchild. If the owner of the tract is a partnership, the designated person who is actively engaged in farming must be a partner or a partner's spouse. If the owner of the tract of land is a family farm corporation, the designated person who is actively engaged in farming must be a family member who is a shareholder of the family farm corporation or the shareholder's spouse. If the owner of the tract of land is an authorized farm corporation, the designated person who is actively engaged in farming must be the shareholder who owns at least 51 percent of the stock of the authorized farm corporation or that shareholder's spouse.

If the owner is an individual who leases the land to a family farm corporation or partnership, a shareholder of the corporation or a partner of the partnership shall be considered a designated person if the combined stock of the family farm corporation or the combined partnership interest owned by the owner, the owner's spouse and persons related to the owner within the third degree of consanguinity and their spouses is equal to at least 51 percent of the stock of the family farm corporation or the ownership interest in the partnership.

b. In order to be "actively engaged in farming" the designated person must be personally involved in the production of crops or livestock on the "eligible tract" on a regular, continuous and substantial basis. Personal involvement in the production of crops or livestock includes not only field activities such as soil preparation and testing, planting, fertilizing, spraying, inspecting, cultivating and harvesting but also managerial decision-making activities relating to hybrid selection, crop rotation planning, crop selection, equipment purchases and marketing strategies. Personal involvement in the production of crops or livestock also includes activities pertaining to crop insurance selection, loan selection, and financial record maintenance and preparation. A person performing activities in the capacity of a lessor, whether under a cash or crop-share lease and whether under a written or oral lease, is not actively engaged in farming on the area of the tract covered by the lease.

c. Tracts subject to a federal program pertaining to agricultural land. In lieu of satisfying the "actively engaged in farming" test, a designated person may demonstrate that the person was in general control of the tract which was subject to a federal program pertaining to agricultural land during the prior fiscal year. This alternative test is intended to apply in circumstances where the active farming criteria cannot be met because the land is in the Conservation Reserve Program (commonly referred to as the CRP) or a program substantially similar to the 0/92 option where the tract has been taken out of production.

d. The following examples illustrate family farm tax credit eligibility under various circumstances:

EXAMPLE 1. A and B jointly own land and were both personally involved in the farming operation. They are not related. No credit is allowable because it is a requirement that individual owners be related. If A and B were brothers, the land would qualify for the credit.

EXAMPLE 2. A owns the land and is retired. A leased the land to B, his son. B was personally involved in the farming operation. The land is eligible for the credit even though a lease arrangement existed because the actively engaged in farming requirement can be satisfied through the activities of the owner's spouse, or the owner's relative within the third degree of consanguinity or the relative's spouse. See paragraph *"a,"* subparagraph (3), of this subrule. No credit would be allowable if A and B were not related.

EXAMPLE 3. A owns two contiguous 40-acre tracts. A farmed all of one tract but only 15 acres of the other tract. The other 25 acres of the second tract were leased to a nondesignated person. Both tracts qualify for the credit because contiguous tracts under the same legal ownership are considered one tract and more than half of the total of 80 acres (40 + 15 = 55) were farmed by A.

EXAMPLE 4. The land is owned by a partnership in which the partners A, B, C and D are brothers. A and B farm the land but C and D have no involvement in the farming operation. The land is eligible for the credit because it makes no difference what level of involvement each partner had nor does it matter that one or more of the partners were not personally involved in the farming operation. The only requirement for qualifying for the credit is that at least one of the partners or one of the partners' spouses was personally involved in the farming operation. No credit would be allowable if all the partners were not related to each other.

EXAMPLE 5. The land is owned by a family farm corporation in which the stock is owned equally by A, B and C. A and B are brothers but not related to C. All three partners were personally involved in the farming operation. The land qualifies for the credit because it is only a requirement that a family member who is a shareholder in the family farm corporation be involved in the farming operation. The land would qualify for the credit even if B was not involved in the farming operation. However, no credit would be allowable if only C was involved in the farming operation.

EXAMPLE 6. The land is owned by an authorized farm corporation in which 60 percent of the stock is owned by A and 40 percent of the stock is owned by B. Both A and B were personally involved in the farming operation. The credit is allowable as long as the stockholder who owns at least 51 percent of the stock was personally involved in the farming operation. No credit would be allowable if A was not personally involved in the farming operation.

80.11(2) *Application for credit.* To obtain the credit, the owner must file an application for credit with the assessor by November 1. If the claim for credit is approved, no further filing shall be required provided the ownership and the designated person actively engaged in farming the property remain the same during successive years. A new application for credit shall be required only if the property is sold or the designated person changes. The county board of supervisors shall review all claims and make a determination as to eligibility. The claimant may appeal a decision of the board to district court by giving written notice to the board within 20 days of the board's notice.

80.11(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of family farm tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of $5.40 multiplied by the taxable value of the eligible tract.

80.11(4) *Penalty.* The owner shall provide written notice to the assessor if the designated person changes. Failure to do so shall result in the owner's being liable for the amount of the credit plus a penalty equal to 5 percent of the amount of the credit granted.

This rule is intended to implement Iowa Code chapter 425A as amended by 2001 Iowa Acts, House Files 712 and 713.

701—80.12(427) Methane gas conversion property.

80.12(1) *Application for exemption.* An application for exemption is required to be filed with the appropriate assessing authority by February 1 of each year. The assessed value of the property is to be prorated to reflect the appropriate amount of exemption if the property used to convert the methane gas to energy also uses another fuel. The first year exemption shall be equal to the estimated ratio that the methane gas consumed bears to the total fuel consumed times the assessed value of the property. The exemption for subsequent years shall be based on the actual ratio for the previous year.

80.12(2) *Eligibility for exemption.* To qualify for exemption, the property must be used either in an operation that decomposes waste and converts it to methane gas or other gases produced as a byproduct of waste decomposition, then collects the gases and converts them to energy; or in an operation that collects waste in order to decompose it to produce methane gas or other gases for conversion into energy. The exemption applies to both property used in connection with, or in conjunction with, a publicly owned sanitary landfill and to property not used in connection with, or in conjunction with, a publicly owned sanitary landfill.

The exemption for property not used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill is limited to property originally placed in operation on or after January 1, 2008, and on or before December 31, 2012, and will be available for the ten-year period following the date the property was originally placed in operation.

This rule is intended to implement Iowa Code section 427.1(29) as amended by 2009 Iowa Acts, Senate File 478, section 224.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09; **ARC 8358B**, IAB 12/2/09, effective 1/6/10]

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) *Special valuation allowed by ordinance.* A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property must be valued at market value rather than at 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor must value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property must not be assessed until the assessment year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) *Special valuation not allowed by ordinance.* If a city council or county board of supervisors has not passed an ordinance providing for the special valuation of wind energy conversion property, property that was placed in service after July 1, 2005, and before July 1, 2012, is to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility must file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department must certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors must notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department. The board must also notify the department of those facilities that are required to pay the property taxes to the department. The department must notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification is authorization for the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and chapter 476B.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09; **ARC 8358B**, IAB 12/2/09, effective 1/6/10; **ARC 3314C**, IAB 9/13/17, effective 10/18/17]

701—80.14(427) Mobile home park storm shelter.

80.14(1) *Application for exemption.* An application for exemption must be filed with the assessing authority by February 1 of the first year the exemption is requested. Applications for exemption are not required in subsequent years if the property remains eligible for exemption.

80.14(2) *Eligibility for exemption.* The structure must be located in a mobile home park as defined in Iowa Code section 435.1.

80.14(3) *Valuation exempted.* If the structure is used exclusively as a storm shelter, it shall be fully exempt from taxation. If the structure is not used exclusively as a storm shelter, the exemption shall be limited to 50 percent of the structure's commercial valuation.

This rule is intended to implement Iowa Code Supplement section 427.1(30).

701—80.15(427) Barn and one-room schoolhouse preservation. The increase in value added to a farm structure constructed prior to 1937 or one-room schoolhouse as a result of improvements made is exempt from tax. An application must be filed with the assessor by February 1 of the first assessment year only and the exemption is to continue as long as the structure continues to be used as a barn or in the case of a one-room schoolhouse is not used for dwelling purposes. A "barn" is an agricultural structure that is used for the storage of farm products or feed or the housing of farm animals, poultry, or farm equipment.

This rule is intended to implement Iowa Code sections 427.1(31) and 427.1(32) as amended by 2000 Iowa Acts, House File 2560.

701—80.16(426) Agricultural land tax credit.

80.16(1) *Eligibility for credit.* The credit shall be allowed on land in tracts of ten acres or more, or land of less than ten acres if part of other land of more than ten acres, and used for agricultural or horticultural purposes.

80.16(2) *Application for credit.* No application for credit is required.

80.16(3) *Application of credit.* The county auditor shall certify to the department of revenue by April 1 the total amount of agricultural land tax credits due the county. The county auditor shall apply the credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of $5.40 multiplied by the taxable value of the eligible tract.

This rule is intended to implement Iowa Code chapter 426 as amended by 2001 Iowa Acts, House File 713.

701—80.17(427) Indian housing property. Property owned and operated by an Indian housing authority, as defined in 24 CFR 950.102, is exempt from taxation provided the exemption has been approved by the city council or county board of supervisors, whichever is applicable, and a valid claim for exemption has been filed pursuant to Iowa Code section 427.1(14) by February 1.

This rule is intended to implement Iowa Code section 427.1 as amended by 2001 Iowa Acts, Senate File 449.

701—80.18(427) Property used in value-added agricultural product operations. Fixtures used for cooking, refrigeration, or freezing of value-added agricultural products used in value-added agricultural processing or used in direct support of value-added agricultural processing are exempt from tax. Direct support includes storage by public refrigerated warehouses for processors of value-added agricultural products prior to the start of the value-added agricultural processing operation. The exemption does not apply to fixtures used primarily for retail sale or display. If the taxpayer is a retailer, there is a presumption that the fixtures are being used primarily for retail sale or display. The exemption applies only to fixtures that are attached in a manner set forth in Iowa Code section 427A.1(2).

The following definitions apply to this rule:

"Fixture" means property which was originally personal property but which by being physically attached to the realty becomes part of the realty and upon removal does not destroy the property to which it is attached.

"Value-added agricultural processing" means an operation whereby an agricultural product is subjected to some special treatment by artificial or natural means which changes its form, context, or condition, and results in a marketable agricultural product to be sold at retail. These operations are commonly associated with fabricating, compounding, germinating, or manufacturing.

"Value-added agricultural product" means an agricultural product which, through a series of activities or processes, may be sold at a higher price than its original purchase price.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2001 Iowa Acts, House File 715.

701—80.19(427) Dwelling unit property within certain cities. Dwelling unit property owned and managed by a nonprofit community housing development organization that owns and manages more than 150 dwelling units in a city with a population of more than 110,000 is exempt from tax. The organization must be recognized by the state and the federal government pursuant to criteria contained in the HOME program of the federal National Affordable Housing Act of 1990 and must be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The exemption does not extend to dwelling units located outside the city. The organization must file an application for exemption with the assessing authority not later than February 1 of the assessment year. Applications for exemption are not required in successive years if the property continues to qualify for the exemption.

This rule is intended to implement Iowa Code Supplement section 427.1(21A) as amended by 2006 Iowa Acts, House File 2792.

701—80.20(427) Nursing facilities. If the assessor determines that property is being used for a charitable purpose pursuant to Iowa Code section 427.1(8), it shall be fully exempt from tax if it is licensed under Iowa Code section 135C.1(13) by the department of inspections and appeals, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, and a valid application for exemption has been filed with the assessor by February 1 of the assessment year.

This rule is intended to implement Iowa Code Supplement section 427.1(14).

701—80.21(368) Annexation of property by a city. A city council may provide a partial tax exemption from city taxes against annexed property for a period of ten years. The exemption schedule is contained in Iowa Code Supplement section 368.11(3)*"m."* All property owners included in the annexed area must receive the exemption if the city elects to allow the exemption.

This rule is intended to implement Iowa Code Supplement section 368.11(3)*"m"* as amended by 2006 Iowa Acts, House File 2794.

701—80.22(427) Port authority. The property of a port authority created pursuant to Iowa Code Supplement section 28J.2 when devoted to public use and not held for pecuniary profit is exempt from taxation.

This rule is intended to implement Iowa Code Supplement section 427.1(34).

701—80.23(427A) Concrete batch plants and hot mix asphalt facilities. A concrete batch plant includes the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete. A hot mix asphalt facility is any facility used to manufacture hot mix asphalt by heating and drying aggregate and mixing it with asphalt cements. These facilities shall not be assessed and taxed as real property regardless of the property's attachment to real estate. The land on which the facilities are located is taxable.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, Senate File 2391.

701—80.24(427) Airport property. Property owned by a city or county at an airport and leased to a fixed base operator providing aeronautical services to the public is exempt from taxation.

This rule is intended to implement Iowa Code section 427.1(2) as amended by 2006 Iowa Acts, House File 2794.

701—80.25(427A) Car wash equipment. Property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, House File 2794.

701—80.26(427) Web search portal and data center business property. This exemption includes computers and equipment necessary for the maintenance and operation of a web search portal or data center business, including cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under Iowa Code chapter 437A; back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays. The exemption does not apply to land, buildings, and improvements. The web search portal or data center business must meet the requirements contained in Iowa Code section 423.3, subsection 92, subsection 93, or subsection 95, for the exemption to be allowable. The owner of the property must file a claim for exemption with the assessor by February 1 of the first year the exemption is claimed. Claims for exemption in successive years will be required only for property additions.

This rule is intended to implement Iowa Code sections 427.1(35) and 427.1(36) and section 427.1 as amended by 2009 Iowa Acts, Senate File 478, section 200.
[**ARC 8358B**, IAB 12/2/09, effective 1/6/10]

701—80.27(427) Privately owned libraries and art galleries. Claims for exemption for libraries and art galleries owned and kept by private individuals, associations, or corporations for public use and not for private profit must be filed with the local assessor by February 1 of the first year the exemption is requested. Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of claims as long as the property continues to be used as a library or art gallery for public use and not for private profit.

This rule is intended to implement Iowa Code Supplement section 427.1(7) as amended by 2008 Iowa Acts, Senate File 2400.

701—80.28(404B) Disaster revitalization area. The governing body of a city or county may, by ordinance, designate an area of the city or county a disaster revitalization area if that area is within a county or portion of a county in which the governor has proclaimed a disaster emergency or the United States president has declared a major disaster. All real property within a disaster revitalization area is eligible to receive a 100 percent exemption from taxation on the increase in assessed value of the property if the increase in assessed value is attributable to revitalization of the property occurring between May 25, 2008, and December 31, 2013. The amount of increase in value shall be the difference between the assessed value of the property on January 1, 2007, and the assessed value of the property on January 1, 2010, and subsequent assessment years. The exemption is for a period not to exceed five years, starting with an assessment year beginning on or after January 1, 2010. A city or county may adopt a tax exemption percentage different from the 100 percent exemption. The different percentage adopted must not allow a greater exemption, but may allow a smaller exemption. If the homeowner elects to take the exemption provided in this rule, the homeowner may not claim any other value-added exemption. An application must be filed for each revitalization project resulting in increased assessed value for which an exemption is claimed. The application for exemption must be filed by the owner of the property with the local assessor by February 1 of the first assessment year for which the exemption is requested. After the tax exemption is granted, the exemption will continue for succeeding years without the taxpayer's having to file an application for exemption unless additional revitalization projects occur on the property. The ordinance must expire or be repealed no later than December 31, 2016.

This rule is intended to implement 2009 Iowa Acts, Senate File 457, sections 23 to 30.
[**ARC 8358B**, IAB 12/2/09, effective 1/6/10]

701—80.29(427) Geothermal heating and cooling systems installed on property classified as residential.

80.29(1) *In general.* An exemption from property tax shall be allowed for any value added to property by any new construction or refitted installation of a geothermal heating or cooling system if the geothermal heating or cooling system is constructed or installed on or after July 1, 2012, on property classified as residential. The exemption shall also be allowed for a residential dwelling on agricultural land. The exemption does not have to be claimed the year subsequent to the year the geothermal system is constructed or installed. However, every individual claiming the exemption under this rule shall file with the appropriate assessor, not later than February 1 of the year for which the exemption is requested, an application for exemption. The assessor shall then allow or disallow the exemption.

Upon the filing and allowance of the claim, the claim shall be allowed on the property for ten consecutive years without further filing as long as the property continues to be classified as residential. However, if the property ceases to be classified as residential or if the geothermal heating and cooling system ceases to exist before the ten years have expired, no exemption is allowed for the year in which the change in classification took place or for any subsequent years. The exemption amount shall remain fixed at the same amount that was allowed in the first year the exemption was allowed.

The property tax exemption applies to any value added by the addition of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses included in or required for the construction or installation of the geothermal system that would not have been included in the home if not for the installation of the geothermal heating and cooling system. Additionally, the proportionate value of any well field associated with the system and attributable to the owner is exempt.

80.29(2) *Calculation of value added.* As used in this rule, the terms "any value added" and "value added" mean the amount of increase in the actual assessed value of the property that is directly attributable to the new construction or refit installation of a geothermal heating or cooling system as of the first year for which the geothermal heating and cooling system is actually assessed. "Any value added" does not include speculative or indirect increases in value which, for example, may be attributable to reductions in energy consumption or reductions in the negative impact to the environment. "Any value added" does not include changes in value which are attributable to general housing market fluctuations. Cost of the new construction or refit installation of the geothermal heating or cooling system is not determinative of the value added to a property. In the event the exemption is not filed in the same year the geothermal heating and cooling system is first assessed, the amount of the exemption, upon filing, shall be the same amount as it would have been had the exemption been filed in the year the geothermal heating and cooling system was first assessed.

In the case of new construction and refit installation of a geothermal heating or cooling system, the value added is the value that would not have been included in the home if not for the construction or refit installation of the geothermal heating and cooling system. That is, the value of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses that would have been included with a standard heating and cooling system shall not be considered in calculating the value added. To measure the value added by a geothermal heating and cooling system, the assessor shall compute the difference between the assessed value of the residential property if the property were outfitted with a non-geothermal (standard) heating and cooling system and the assessed value of the property outfitted with the geothermal system. In the case that the new construction or refit installation takes more than one year, the assessor shall make the comparison in the year the new construction or refit installation is completed.

EXAMPLE A: Mrs. Smith wants to upgrade her current standard heating and cooling system in her home with a geothermal system. The geothermal system installation is completed on August 1, 2012. On January 22, 2013, Mrs. Smith files a claim for exemption for the value added to her property that is directly attributable to the refit installation of the geothermal system. To determine the value added that is directly attributable to the geothermal system, the assessor shall compare the value of the home as though it was outfitted with the standard heating and cooling system which was upgraded with the value of the home outfitted with the geothermal heating and cooling system; the difference between the two values is the exemption amount. That exemption amount will remain fixed for the next ten years,

until Mrs. Smith's home ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first. For years subsequent to 2013, any increase in the value of Mrs. Smith's home beyond the assessed value of the home outfitted with the geothermal heating and cooling system is not attributable to the geothermal system and is subject to property tax. The property tax exemption amount for the geothermal heating and cooling system will remain the same as the first year for which the exemption was received even if the assessed value of Mrs. Smith's home drops.

EXAMPLE B: Same facts as Example A, except that on January 1 of year seven, Mrs. Smith's home is reclassified as commercial property. No property tax exemption is allowed for the value added by the geothermal system for year seven or any subsequent years.

EXAMPLE C: Mr. Larson is building a new home and plans to construct a new geothermal system in lieu of a standard heating and cooling system. The home and geothermal system are completed on October 24, 2012. To determine the value added that is directly attributable to the installation of the geothermal system, the assessor shall assess the home as though it had been outfitted with a standard heating and cooling system and compare that value with the assessed value of the home outfitted with the geothermal heating and cooling system. The difference between the two amounts is the value added that is directly attributable to the geothermal system and is the exemption amount. In 2013, the assessed value of Mr. Larson's home with a standard heating and cooling system is $200,000. The assessed value of Mr. Larson's home with the geothermal system is $210,000. Therefore, the value added to the property that is directly attributable to the geothermal system is $10,000. Mr. Larson may claim an exemption amount of $10,000 starting in assessment year 2013. Mr. Larson does not lose the exemption if he fails to claim the exemption by February 1, 2013; he may claim the exemption in any year subsequent to the completion of the construction of the home. An exemption amount of $10,000 will continue for ten consecutive years after the exemption is claimed, until the property ceases to be classified as residential, or until the geothermal system ceases to exist, whichever occurs first.

EXAMPLE D: Same facts as Example C, except that Mr. Larson claims the exemption in 2019. The exemption amount in 2019, and the nine subsequent years, is the value added in the year the geothermal heating and cooling system was first assessed; here, $10,000 in 2013. The value added and exemption amount is not calculated in the year Mr. Larson claims the exemption. The $10,000 exemption will then continue until 2028, until the property ceases to be classified as residential or until the geothermal system ceases to exist, whichever occurs first.

This rule is intended to implement Iowa Code section 427.1.

[**ARC 0467C**, IAB 11/28/12, effective 1/2/13]

701—80.30(426C) Business property tax credit.

80.30(1) *Definitions.* For purposes of this rule, the following definitions shall govern.

"Contiguous parcels" means any of the following:

1. Parcels that share a common boundary. There is a rebuttable presumption that parcels separated by a roadway, alley, or waterway do not share a common boundary. The burden of proof shall be upon the property owners to provide evidence or verification that parcels separated by a roadway, alley, or waterway share a common boundary. Parcels owned to the middle of a road, waterway, alley, or railway in fee simple title are considered to share a common boundary.

2. Parcels within the same building or structure regardless of whether the parcels share a common boundary.

3. Permanent improvements to the land that are situated on one or more parcels of land that are assessed and taxed separately from the permanent improvements if the parcels of land upon which the permanent improvements are situated share a common boundary. This arrangement is more commonly referred to as buildings or permanent improvements that are taxed as buildings upon leased land.

"Dwelling unit" means an apartment, group of rooms, or single room that is occupied as separate living quarters, or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy. Dwelling units do not include hotels, motels, inns, or other buildings where rooms are rented for less than one month.

"Parcel" means each separate item shown on the tax list, manufactured or mobile home tax list, schedule of assessment, or schedule of rate change or charge. For fiscal years beginning on or after January 1, 2016, "parcel" also means each portion of a parcel assigned a distinct classification as set forth in rule 701—71.1(405,427A,428,441,499B).

"Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Property unit" means contiguous parcels all of which are located within the same county, with the same property tax classification, are owned by the same person, and are operated by that person for a common use and purpose.

80.30(2) *In general.* Except as provided in subrule 80.30(8), for property taxes due and payable in fiscal years beginning on and after July 1, 2014, one business property tax credit is available to each parcel classified and taxed as commercial property, industrial property, or railway property unless the parcel is part of a property unit for which a business property tax credit is claimed. For property taxes due and payable in fiscal years beginning on and after July 1, 2014, one business property tax credit is available to each property unit made up of property assessed as commercial property, industrial property, or railway property.

80.30(3) *Application for credit.*

a. Notwithstanding paragraph 80.30(3)*"b,"* for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2014, the claim for credit shall be received in the office of the applicable city or county assessor not later than January 15, 2014.

b. For a business property tax credit against property taxes due and payable during fiscal years beginning on and after July 1, 2015, and before July 1, 2017, no business property tax credit shall be allowed unless the first application for business property tax credit is received in the office of the applicable city or county assessor on or before March 15 preceding the fiscal year during which the credit first is claimed. For example, the first application for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2016, must be received in the office of the applicable city or county assessor on or before March 15, 2016.

c. For a business property tax credit against property taxes due and payable during fiscal years beginning on or after July 1, 2017, no business property tax credit shall be allowed unless the first application for the business property tax credit is received in the office of the applicable city or county assessor on or before July 1 preceding the fiscal year during which the credit is first claimed. For example, the first application for a business property tax credit against property taxes due and payable during the fiscal year beginning July 1, 2017, must be received in the office of the applicable city or county assessor on or before July 1, 2016.

d. A claim filed after the filing deadlines set forth in paragraphs 80.30(3)*"a,"*80.30(3)*"b,"* and 80.30(3)*"c"* will be applied against property taxes due and payable for the following year.

e. Once filed, the claim for credit is applicable to subsequent years, and no further filing shall be required as long as the parcel or property unit satisfies the requirements of the credit. If the parcel or property unit ceases to qualify for the credit, the owner shall provide written notice to the assessor by the date for filing claims in paragraphs 80.30(3)*"b"* and 80.30(3)*"c,"* as applicable, following the date on which the parcel or property unit ceases to qualify for the credit. When all or a portion of a parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the buyer, transferee, or new owner who wishes to receive the credit shall refile the claim for credit. When a portion of a parcel or property unit that is allowed a credit is sold or transferred or ownership otherwise changes, the owner of the portion of the parcel or property unit for which ownership did not change shall refile the claim for credit. A transfer entered in the auditor's transfer books under 2015 Iowa Code section 558.57 shall be prima facie evidence of a change in ownership of the parcel or property unit. The burden shall be on the claimant to prove that a transfer entered in the auditor's transfer books did not result in a change in ownership. The deadline for refiling the claim shall be the same as the deadline for filing the claim.

f. In the event the application deadline falls on either a Saturday or Sunday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following Monday.

g. In the event the application deadline falls on a state holiday, applications for the business property tax credit may be received in the office of the applicable city or county assessor the following business day.

h. Table 1 shows the applicable claim receipt deadlines and the taxes toward which the claim applies.

Table 1

	Assessment Year 2013	Assessment Year 2014	Assessment Year 2015	Assessment Year 2016	Assessment Year 2017
Claim Receipt Deadline	January 15, 2014	March 16, 2015[1]	March 15, 2016	July 1, 2016	July 3, 2017[2]
For Taxes Payable	September 2014 & March 2015	September 2015 & March 2016	September 2016 & March 2017	September 2017 & March 2018	September 2018 & March 2019

[1] March 15, 2015, falls on a Sunday.

[2] July 1, 2017, falls on a Saturday.

i. An assessor may not refuse to accept an application for business property tax credit. Assessors shall remit claims for credit to the county auditor with a recommendation to allow or disallow the claim. If it is the opinion of the assessor that a business property tax credit should not be allowed, the assessor's recommendation to the county auditor shall include in writing the reasons for recommending disallowance.

j. Upon receipt from the assessor of the claims and recommendations, the county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim for credit, the board shall send written notice by mail to the claimant at the claimant's last-known address. The written notice shall state the reasons for disallowing the claim for the credit. Notwithstanding the foregoing, the board is not required to send notice that a claim for credit is disallowed if the claimant voluntarily withdraws the claim.

80.30(4) *Appeals.*

a. Initial appeal. Any person whose claim is disallowed by the board of supervisors may appeal that action to the district court of the county in which the parcel or property unit is located. Notice of appeal must be given to the county auditor within 20 days from the date on which the notification of disallowance was mailed by the board of supervisors.

b. Reversal. If the board of supervisors' disallowance of the claim for credit is reversed upon appeal, the credit shall be allowed on the applicable parcel or property unit. The department of revenue, the county auditor, and the county treasurer shall provide the credit and change their books and records accordingly. If the claimant has paid one or both of the installments of the tax payable in the year or years in question, the county treasurer shall remit the amount of the credit to the claimant and submit a request to the department for reimbursement from the business property tax credit fund. The amounts payable as credits awarded on appeal shall be allocated and paid from the balance remaining in the business property tax credit fund established in Iowa Code section 426C.2.

80.30(5) *Audit.*

a. Authority and period. The department of revenue may audit any credit provided under Iowa Code section 426C.4. However, the department shall not adjust a credit allowed more than three years from October 31 of the year in which the claim for credit was filed.

b. Recalculation or denial. If an audit reveals that the amount of the credit was incorrectly calculated or that the credit should not have been allowed, the department shall recalculate the credit, if applicable, and notify both the claimant and the county auditor of the recalculation and the reasons it is being made.

c. Recapture. If the credit has already been paid, the department shall notify the claimant, the county treasurer, and the applicable assessor of the recalculation or denial of the credit. If the claimant still owns the parcel or property unit for which the credit was claimed, the county treasurer shall collect

the tax owed in the same manner as other due and payable property taxes are collected. If the claimant no longer owns the parcel or property unit for which the credit was claimed, the department may recover the amount of tax owed by filing a lien under Iowa Code section 422.26 or by issuing a jeopardy assessment under Iowa Code section 422.30. Upon collection, the amount of the erroneously allowed credit shall be deposited in the business property tax credit fund.

d. Appeal of recalculation or denial. The claimant or the board of supervisors may appeal any decision of the department to the director of revenue. The director shall review the department's decision within 30 days from the date of the notice of recalculation or denial provided to the claimant and county auditor. The director shall grant a hearing, at which the director shall determine the correct credit, if any. The director shall notify the claimant, board of supervisors, county auditor, and county treasurer of the decision by mail. The claimant or the board of supervisors may seek judicial review of the director's decision pursuant to the provisions of Iowa Code chapter 17A.

e. False claim and penalty. Any person who makes a false claim for the purpose of obtaining a credit or who knowingly receives the credit without being legally entitled to it is guilty of a fraudulent practice. The claim for a credit for such a person shall be disallowed, and the director shall send a notice of disallowance. If the credit has been paid, the amount shall be recovered in the manner described in paragraph 80.30(5)*"c."*

80.30(6) *Property eligible for credit.*

a. Eligible parcels and property units.

Parcels and property units classified and taxed as commercial property, industrial property, or railway property under Iowa Code chapter 434 are eligible for the business property tax credit for the unit. The assessor shall keep a permanent file of all eligible property units in the assessor's jurisdiction. Each assessment year, the assessor shall update the file based on transfers of property from the auditor's transfer book.

b. Taxable status of parcels and property units.

(1) Property that is fully exempt from property tax is not eligible to receive the business property tax credit.

(2) An application for the business property tax credit shall be denied if a parcel or parcels are fully exempt from property tax at the time the application for credit is filed with the city or county assessor.

(3) Determination of eligibility of parcel or property unit based on taxable status.

1. The taxable status of the property on July 1 of the assessment year shall determine the eligibility of the parcel or property unit to receive the credit. If the parcel or property unit becomes exempt from property tax prior to July 1 of the assessment year, the credit shall be disallowed. If the parcel or property unit was taxable on July 1 of the assessment year, but becomes exempt after July 1, the parcel or property unit may receive the credit only in the prorated amount that corresponds to the amount of tax paid in that fiscal year, if any.

2. The assessor shall give notice to the auditor of partial credits allowed due to a change in taxable status of a parcel or property unit. The auditor shall update the auditor's file and give notice on forms prescribed by the department to the department of revenue of partial credits allowed due to a change in taxable status of a parcel or property unit.

(4) The owner of any parcel or property unit that has been granted the credit but becomes exempt from property tax prior to July 1 of the assessment year shall provide written notice to the city or county assessor by the date for filing claims.

(5) The taxable portion of any partially exempted property shall receive the credit only in an amount applicable to the taxable portion.

80.30(7) *Common use and purpose.* Whether parcels are operated for a common use and purpose depends on all the facts and circumstances of each set of parcels. The following nonexclusive examples illustrate common use and purpose.

EXAMPLE 1. ABC Properties is in the business of building, owning, leasing, and managing large retail spaces. ABC builds and owns a large shopping mall that covers contiguous parcels, all of which are located within the same county. Although the retail establishments that lease retail space in the shopping mall offer different products and services, the shopping mall is owned and operated by ABC

for the common use and purpose of being a lessor. Thus, the parcels that make up the mall are eligible as a single property unit.

EXAMPLE 2. John's LLC owns four commercial parcels located within the same building, and they are, therefore, contiguous as defined in subrule 80.30(1). John's owns and operates two parcels as a beauty parlor. John's rents the other two parcels to a bicycle shop. The four parcels, together, do not have a common use and purpose. However, the two parcels used by John's as an owner-operator of the beauty parlor business are operated with the common use and purpose of providing beauty services and are eligible as one property unit. The two parcels that John's rents to the bicycle shop are operated with the common use and purpose of being rented out for profit as a landlord and are eligible as a second property unit.

80.30(8) *Property ineligible for credit.* The following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:

a. Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, as amended, and that is subject to assessment procedures relating to Section 42 property under Iowa Code section 441.21, subsection 2, for the applicable assessment year.

b. Property classified as multiresidential under 701—subrule 71.1(5).

80.30(9) *Application of credit.*

a. A person may claim and receive one business property tax credit for each eligible parcel unless the parcel is part of a property unit for which a credit is claimed.

b. A person may claim and receive one business property tax credit for each property unit. A claim for credit on a parcel that is part of a property unit constitutes a claim for credit on the entire unit.

c. A credit approved for a property unit shall be allocated to the several parcels within the property unit in the proportion that each parcel's total amount of property taxes due and payable bears to the total amount of property taxes due and payable on the property unit.

d. The classification of property used to determine eligibility for the business property tax credit shall be the classification of the property for the assessment year used to calculate the taxes due and payable in the fiscal year for which the credit is claimed.

e. Once filed and allowed, the credit shall continue to be allowed on the parcel or property unit for successive years without further filing of an application unless the parcel or property unit ceases to qualify for the credit under Iowa Code chapter 426C.

f. When all or a portion of a parcel or property unit is sold or transferred or ownership otherwise changes, the new owner must reapply for the credit. The owner of the portion of a parcel or property unit that did not change shall also reapply for the credit. When the composition of a property unit changes as the result of a sale, transfer, or change in ownership, the owner of the property unit must reapply for the credit on the entire unit.

g. The following noninclusive examples illustrate the application of the business property tax credit under various circumstances.

EXAMPLE 1. On February 13, 2015, Mr. Jones files with his county assessor an application for the business property tax credit for taxes due and payable in the fiscal year beginning July 1, 2015. The property that Mr. Jones claims is eligible for the credit is a single parcel that is classified as commercial property. The property is not rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code. The property is not a mobile home park, manufactured home community, land-leased community, or assisted living facility nor is it primarily used or intended for human habitation with three or more separate dwelling units. Therefore, Mr. Jones' application should be approved as a credit against the taxes due and payable in the fiscal year beginning July 1, 2015.

EXAMPLE 2. Same facts as in EXAMPLE 1, but Mr. Jones files his application on July 3, 2016. Mr. Jones' application should be approved, but the credit will be against taxes due and payable in the fiscal year beginning July 1, 2018.

EXAMPLE 3. Davidoff LLC owns two parcels of land, both of which are classified as industrial property. Each parcel is being operated for a common use and purpose. The parcels are separated by a road. If Davidoff owns the property parcels to the middle of the road in fee simple title, the parcels are considered contiguous and would qualify as a unit, and Davidoff would be eligible for a single business

property tax credit. If a third party, including the state, a municipality, or other government entity, owned the road in fee simple title, the parcels would not be considered contiguous, and Davidoff would be eligible for two separate business property tax credits.

EXAMPLE 4. In Madison County, Iowa, there is a wind farm that consists of four wind turbines that are taxed separately as permanent improvements to the land. All the wind turbines are owned by Windy LLC. The turbines sit upon four parcels of land that share a common boundary. Each parcel of land is owned by a different owner. The four wind turbines are contiguous because the wind turbines are taxed as permanent improvements to the land, they are situated upon four parcels of land that share a common boundary, and the land is assessed and taxed separately from the wind turbines. The four wind turbines qualify as a property unit and would be eligible for one business property tax credit.

80.30(10) *Calculation of credit.*

a. Auditor certification. On or before June 30 of each year, the county auditor shall certify to the department the following:

(1) The claims allowed by the board of supervisors in that county;

(2) The actual value, prior to the imposition of any applicable assessment limitations, of the parcels and property units for which credits were allowed in that county; and

(3) The information applicable to the location of the parcels and property units.

b. Department process and methodology.

(1) Department of management information. The department shall obtain from the department of management tax district and applicable consolidated rates. The department shall calculate the credit using the estimated consolidated levy rates obtained from the department of management. The department shall modify the credit accordingly upon certification by the auditor of the actual consolidated levy rates.

(2) Initial amount of actual value. For each parcel or property unit certified by the county auditor, the department shall calculate, for each fiscal year, an initial amount of actual value to use for determining the amount of credit for each such parcel or property unit that provides the maximum possible credit according to the credit formula and limitations prescribed by Iowa Code section 426C.3(5). The department shall also calculate the initial amount of actual value so as to provide that the total dollar amount of credits against the taxes due and payable in the fiscal year equals 98 percent of the moneys in the business property tax credit fund following the deposit of the appropriation for the fiscal year, including any interest or earnings that have been credited to the fund.

(3) Credit amount. The amount of the credit shall be calculated as follows:

Step 1. Determine the lesser of the actual value calculated in paragraph 80.30(10)*"a"* and the initial value calculated in subparagraph 80.30(10)*"b"*(2).

Step 2. Multiply the amount determined in Step 1 by the difference between the assessment limitation percentage applicable to the parcel or property unit under Iowa Code section 441.21(5) and the assessment limitation applicable to residential property under Iowa Code section 441.21(4). For purposes of this calculation, such difference shall be stated as a percentage.

Step 3. Divide the product of Steps 1 and 2 by $1000.

Step 4. Multiply the quotient obtained in Step 3 by the consolidated levy rate or average consolidated levy rate per $1000 of taxable value applicable to the parcel or property unit for the fiscal year for which the credit is claimed as certified by the county auditor under Iowa Code section 426C.3(5).

(4) Allocation to parcels. The business property tax credit approved for a property unit shall be allocated to the several parcels within the property unit in the proportion that each parcel's total amount of property taxes due and payable bears to the total amount of property taxes due and payable on the property unit.

(5) Limitation on information. Notwithstanding the foregoing, the department's calculations shall be based upon the certified information it has received by June 30 of each fiscal year. Any information, whether certified or uncertified, received after June 30 of each fiscal year will not be included in the department's credit calculations for the applicable fiscal year.

This rule is intended to implement Iowa Code chapter 426C.

[**ARC 1382C**, IAB 3/19/14, effective 4/23/14; **ARC 2508C**, IAB 4/27/16, effective 6/1/16]

701—80.31(427) Broadband infrastructure.

80.31(1) *Definitions.* For purposes of this rule, the following definitions shall govern.

"Broadband" means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.

"Broadband infrastructure" means the physical infrastructure used for the transmission of data that provides broadband services. "Broadband infrastructure" does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

"Certified project" means the installation of broadband infrastructure certified by the office of the chief information officer to serve a targeted service area.

"Communications service provider" means a service provider that provides broadband service.

"Date of commencement" means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.

"Date of completion" or *"completed"* means the date that a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.

"Installation of the broadband infrastructure" means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. "Installation of the broadband infrastructure" does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

"Targeted service area" means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015.

80.31(2) *Exemption.* An exemption from property tax shall be allowed for each certified project in the amount equal to 100 percent of the actual value added by installation of the broadband infrastructure in a targeted service area that facilitates broadband service for the public at or above 25 megabits per second of download speed and 3 megabits per second of upload speed, as certified by the office of the chief information officer. The exemption shall be allowed beginning January 1 of the assessment year in which an application for exemption is approved until the exemption is revoked or at the expiration of ten years, whichever occurs earlier.

80.31(3) *Calculation of actual value added by installation of the broadband infrastructure.* The actual value added by installation of the broadband infrastructure is the amount of increase in the actual assessed value of the property that is directly attributable to the installation of broadband infrastructure in a targeted service area for the assessment year in which the property receives the exemption. Changes in the value of the property which are attributable to general market fluctuations are not to be included in the calculation of the actual value added by installation of the broadband infrastructure. Installation of broadband infrastructure that is not part of a certified project is not eligible to receive the exemption.

Broadband infrastructure in general may be assessed locally or by the department of revenue. Broadband infrastructure that qualifies as telephone or telegraph property under Iowa Code chapter 433 is centrally assessed by the department of revenue. Broadband infrastructure that does not qualify as telephone or telegraph property under Iowa Code chapter 433 is locally assessed under Iowa Code chapter 441. The owner of the property must separately report property that is centrally assessed from property that is locally assessed.

a. Locally assessed property. The local assessor shall determine the actual value added by installation of broadband infrastructure using the methodologies required under Iowa Code section 441.21.

b. Centrally assessed property. The department of revenue shall determine the actual value added by installation of the broadband infrastructure by using the appropriate methodologies set forth in 701—Chapter 77.

The department shall calculate the actual value added by installation of the broadband infrastructure as part of the total unit value of the operating property of the company. The exemption attributable to the installation of the broadband infrastructure shall be applied to each unit before any other exemption or credit. In no case shall the taxable value of the property be reduced below zero. The department shall certify the exemption value per line mile for each company to the county auditor pursuant to Iowa Code section 433.8.

80.31(4) *Commencement and completion of project.* To be eligible for the exemption, the date of commencement of the installation of the broadband infrastructure must occur on or after July 1, 2015, and the date of completion of the installation of the broadband infrastructure must occur on or before July 1, 2020.

80.31(5) *Application for exemption.* The owner of broadband infrastructure shall file one application with the department of revenue. The department shall forward the application to the appropriate county boards of supervisors for approval or denial for broadband infrastructure associated with property subject to local assessment. The department shall retain the application for approval or denial for broadband infrastructure associated with property subject to central assessment.

a. Application deadline. The owner of the property shall file the application with the department of revenue by February 1 of the year in which the broadband infrastructure is first assessed for taxation or by February 1 of the following two assessment years. If approved, the exemption shall be allowed for ten years from January 1 of the assessment year in which the application is filed or until revoked without further application. However, at any time prior to the completion of the installation of the broadband infrastructure, an owner may submit a proposal to the department requesting that the owner be allowed to file an application for exemption by February 1 of any other assessment year following completion of the installation of broadband infrastructure. The department shall approve the proposal for property that is centrally assessed. The board of supervisors shall approve the proposal by resolution for property that is locally assessed. If approved, the exemption shall be allowed for ten years from January 1 of the assessment year in which the application is approved or until revoked without further application. If an exemption that was revoked is reinstated on appeal, the exemption shall remain in effect only for the remaining period of exemption. No property shall receive an exemption for the installation of broadband infrastructure for a period greater than ten years.

Neither the department nor the board of supervisors shall approve an application for exemption that is missing any of the requirements listed in this subrule. The department or the board of supervisors may consult with the office of the chief information officer in order to obtain additional information necessary to review an application for exemption.

b. Application requirements. The owner shall submit the application to the department of revenue. It is the responsibility of the owner to ensure that the application is complete and accurate. The application must be made on forms prescribed by the department. In addition, the application must contain the following information, certifications and documentation:

(1) The nature of the broadband infrastructure installation, including the number of new line miles installed within the jurisdiction of the assessing authority to which the owner is applying for exemption, and a description of the property and how it is directly related to delivering broadband services.

(2) The percentage of homes, farms, schools, and businesses in the targeted service area that will be provided access to broadband service.

(3) The actual cost of installing the broadband infrastructure under the project, if available. The application shall contain supporting documents demonstrating actual cost.

(4) Certification from the office of the chief information officer pursuant to Iowa Code section 8B.10 that the installation is being performed or was completed in a targeted service area, including whether or not the targeted service area designation is under appeal pursuant to rule 129—21.7(8B,427), and that it facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

(5) Certification by the company of the date of commencement and actual or estimated date of completion. If an application contains only an estimated date of completion, the owner must notify the department of the actual completion date once the certified project is completed. If the actual completion date occurs after July 1, 2020, the exemption may be revoked.

(6) A copy of any nonwireless broadband-related permit issued by a political subdivision, if applicable.

c. Special application requirements. If an owner submits a proposal to the department prior to the completion of the installation of broadband infrastructure requesting to file an application for exemption in any other assessment year following completion of the project, the owner must provide the following information and documentation in addition to those required under paragraph 80.31(5)*"b."*

(1) The actual cost already incurred for installation of broadband infrastructure, if any, with supporting documentation demonstrating the actual cost.

(2) The estimated costs for project completion.

(3) The estimated date of project completion. Once the project has been completed, the owner must notify the department of the actual completion date. If the actual completion date occurs after July 1, 2020, the exemption may be revoked.

d. Approval or denial of application. All applications shall be submitted to the department of revenue. The department shall forward applications for property subject to local assessment to the board of supervisors of the county in which the exempt property is located. The department shall retain the applications for centrally assessed property. The department and the board of supervisors, as applicable, shall notify an applicant of approval or denial of an application for exemption by March 1 of the assessment year in which the application was submitted. The notification shall include a notification of the applicant's right to appeal. The board of supervisors shall forward all approved applications and any necessary information regarding the applications to the appropriate local assessor by March 1 of the assessment year in which the application was submitted.

Approval of an application involving a targeted service area that is under appeal pursuant to rule 129—21.7(8B,427) shall be contingent on the outcome of the appeal. In the event that an application is approved and the targeted service area designation subsequently is revoked upon appeal, the approved exemption shall also be revoked at that time.

80.31(6) *Revocation of exemption.* The department or board of supervisors may revoke the exemption at any time after the exemption is granted if the department or board of supervisors determines that the property owner no longer provides the broadband service to a targeted service area at the speeds required under Iowa Code section 427.1(40). The property owner has the responsibility to provide the department, the board of supervisors or the office of the chief information officer the information required to substantiate that the broadband infrastructure meets the requirements of the exemption. The department or board of supervisors, as applicable, shall provide notice of revocation to the property owner. An owner may appeal the decision to revoke the exemption within 30 days of the issuance of the notice of revocation.

80.31(7) *Appeals.*

a. Appeal of denial of application for exemption. An applicant for the exemption under this rule whose application is denied may appeal the denial within 30 days of its issuance.

(1) Denial by board of supervisors. An applicant may appeal the denial of its application for exemption by the board of supervisors to the property assessment appeal board within 30 days of the issuance of the denial.

(2) Denial by the department of revenue. An applicant may appeal the denial of its application for exemption by the department of revenue to the director of revenue within 30 days of the issuance of the denial.

b. Appeal of revocation of exemption. An owner whose exemption is revoked may appeal the revocation within 30 days of its issuance.

(1) Revocation by board of supervisors. An owner may appeal the revocation of its exemption by the board of supervisors to the property assessment appeal board within 30 days of the issuance of the revocation.

(2) Revocation by the department of revenue. An owner may appeal the revocation of its exemption by the department of revenue to the director of revenue within 30 days of the issuance of the revocation.

c. Appeal of value of exemption. A property owner who is dissatisfied with the value of the owner's exemption may appeal the value assigned by the local assessor using the protest procedures under Iowa Code section 441.37. A property owner who is dissatisfied with the value of the owner's exemption may appeal the value assigned by the department using the appeal procedures under Iowa Code section 429.2.

This rule is intended to implement Iowa Code section 427.1(40).

[**ARC 2549C**, IAB 5/25/16, effective 6/29/16; **ARC 2786C**, IAB 10/26/16, effective 11/30/16]

701—80.32(427,428,433,434,435,437,438) Property aiding in disaster or emergency-related work. On or after January 1, 2016, see 701—Chapter 242 for assessment of property taxes by the department under Iowa Code sections 428.24 through 428.26, 428.28, and 428.29, or Iowa Code chapters 433, 434, 435, and 437 through 438, or by a local assessor, on property brought into Iowa to aid in the performance of disaster or emergency-related work during a disaster response period as those terms are defined in Iowa Code section 29C.24.

This rule is intended to implement Iowa Code section 427.1(41).

[**ARC 3085C**, IAB 5/24/17, effective 6/28/17]

701—80.33 to **80.48** Reserved.

701—80.49(441) Commercial and industrial property tax replacement—county replacement claims. For each fiscal year beginning on or after July 1, 2014, the department of revenue shall pay to the county treasurer an amount equal to the amount of the commercial and industrial property tax replacement claims in the county. For fiscal years beginning on or after July 1, 2017, if an amount appropriated for a fiscal year is insufficient to pay all replacement claims, the director of revenue shall prorate the payment of replacement claims to the county treasurers and shall notify the county auditors of the pro rata percentage on or before September 30.

80.49(1) For each taxing district, the commercial and industrial property tax replacement claim amount is determined by multiplying the amounts calculated in 80.49(1)*"a"* and *"b"* and dividing the resultant amount by $1,000.

a. The difference between the assessed valuation of all commercial property and industrial property for the assessment year used to calculate taxes which are due and payable in the applicable fiscal year and the actual value of all commercial property and industrial property that is subject to assessment and taxation for the same assessment year; and

b. The tax levy rate per $1,000 of assessed value of each taxing district for that fiscal year.

80.49(2) Reporting requirements.

a. On or before July 1 of each fiscal year beginning on or after July 1, 2014, the assessor shall report to the county auditor the total actual value of all commercial and industrial property in the county that is subject to assessment and taxation for the assessment year used to calculate the taxes due and payable in that fiscal year.

b. On or before September 1 of each fiscal year beginning on or after July 1, 2014, the county auditor shall, based upon the information in the report required to be provided in paragraph *"a"* of this subrule, prepare and submit a statement to the department of revenue which lists, for each taxing district in the county, the information required in 80.49(1). The county auditor shall prepare and submit the required information regardless of whether the legislature has appropriated funds to pay replacement claims for the current year.

c. The department shall pay the replacement amount to the county treasurer in two installments in September and March of each year.

d. The county treasurer shall apportion the replacement claim payments among the eligible taxing districts in the county.

[**ARC 1332C**, IAB 2/19/14, effective 3/26/14; **ARC 3315C**, IAB 9/13/17, effective 10/18/17]

701—80.50(427,441) Responsibility of local assessors.

80.50(1) The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed, the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. For property subject to Iowa Code subsection 427.1(14), the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines,* 200 N.W.2d 509; *Northwest Community Hospital v. Board of Review of Des Moines,* 229 N.W.2d 738.)

80.50(2) In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the claimant to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines,* 200 N.W.2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review,* 243 N.W.2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland,* 226 N.W.2d 22.)

80.50(3) If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

80.50(4) The assessor's determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code chapter 427 and sections 441.17(11), 441.26, and 441.27.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.51(441) Responsibility of local boards of review.

80.51(1) If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years, and shall give notice to the taxpayer as provided in Iowa Code section 441.36.

80.51(2) If the board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 441.35, 441.36, and 441.37.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.52(427) Responsibility of director of revenue. The director may revoke or modify an exemption on property if the exemption is found to have been erroneously granted by the local taxing officials. Any taxpayer or taxing district may request that the director revoke or modify an exemption, or the director may on the director's own determination revoke or modify an exemption. The director may revoke or modify an exemption for the tax year commencing in the tax year in which the request is made to the director or for the tax year commencing in the tax year in which the director's own motion is filed. The director shall hold a hearing on the appropriateness of the exemption prior to issuing an order for revocation or modification. The director's order to revoke or modify an exemption may be appealed in accordance with Iowa Code chapter 17A or in the district court of the county in which the property is located.

This rule is intended to implement Iowa Code section 427.1(16).

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.53(427) Application for exemption.

80.53(1) Each society or organization seeking an exemption under Iowa Code subsection 427.1(5), 427.1(8), 427.1(21), or 427.1(33) shall file with the appropriate assessor a statement containing the following information:

a. The legal description of the property for which an exemption is requested.

b. The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.

c. A financial statement showing the income derived and the expenses incurred in the operation of the property.

d. The name of the organization seeking the exemption.

e. If the exemption is sought under Iowa Code subsection 427.1(8), the appropriate objects of the society or organization.

f. The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.

g. An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.

h. The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

80.53(2) The statement of objects and uses required by Iowa Code subsection 427.1(14) shall be filed only on forms prescribed by the director of revenue and made available by assessors.

80.53(3) Applications for exemptions required under Iowa Code subsection 427.1(14) must be filed with the assessor not later than February 1 of the year for which the exemption is requested.

80.53(4) If a properly completed application is not filed by February 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property for that year (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1, subsections 5, 8, 14, 19 to 24, 27, and 29 to 33.

[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.54(427) Partial exemptions. In the event a portion of property is determined to be subject to taxation and a portion of the property exempt from taxation, the taxable value of the property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code subsection 427.1(14).

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701—80.55(427,441) Taxable status of property.

80.55(1) The status of property on July 1 of the fiscal year which commences during the assessment year determines eligibility of the property for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year. Exceptions to this rule are as follows:

a. Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement, or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.

b. All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally owned property (1980 O.A.G. 80-1-19). The following exceptions apply:

(1) Property owned by the Federal Housing Authority (FHA) and property owned by the Federal Land Bank Association are subject to taxation, and any tax liabilities existing at the time of the acquisition are not to be canceled (1982 O.A.G. 82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1 (15 USCS §646).

c. Land owned by the state and leased by the department of corrections or the department of human services pursuant to Iowa Code section 904.302, 904.705, or 904.706 to an entity that is not exempt from property tax is subject to taxation for the term of the lease. This provision applies to leases entered into on or after July 1, 2003. The lessor shall file a copy of the lease with the county assessor of the county where the land is located.

80.55(2) The status of property during the fiscal year for which an exemption was claimed determines eligibility of the property for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been claimed and received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1), 427.1(2), 427.2, 427.18, and 427.19.
[**ARC 7726B**, IAB 4/22/09, effective 5/27/09]

701—80.56(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift or purchase if the property was acquired after the deadline for filing a claim for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 7, 8, or 9, if a timely claim had been filed.

This rule is intended to implement Iowa Code section 427.3.
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