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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

Landscape Architectural Examining Board[193D]

Replace Chapter 2

Utilities Division[199]

Replace Chapter 10
Replace Chapters 19 and 20
Replace Chapter 25

Professional Licensure Division[645]

Replace Chapter 5

Medicine Board[653]

Replace Chapter 13
Replace Chapter 25

Revenue Department[701]

Replace Chapter 71

Volunteer Service, Iowa Commission on[817]

Replace Analysis
Insert Chapter 12

CHAPTER 2
EXAMINATIONS AND LICENSING

[Prior to 3/9/88, see Landscape Architectural Examiners Board[540] Ch 2]

193D—2.1(544B,17A) Definitions. As used in these rules, the following definitions of words and terms shall apply:

"CLARB" means the Council of Landscape Architectural Registration Boards.

"Evidence" means any document or record of any kind of drawings, specifications, photographs, diplomas, registrar's statements, published data and certified personal statements as may be required as a part of any action on the part of the board. Each item of evidence shall be clearly marked to ensure positive and certain identification. It shall be the entire responsibility of the applicant to satisfy the board as to the sufficiency of the record and the evidence.

"Intern landscape architect" means an individual who has a degree in landscape architecture, who is employed under the direct supervision of a professional landscape architect, and who intends to actively pursue registration by completing the landscape architecture registration examination. The initials "I.L.A." should not be used.

"L.A., retired" means the same as "landscape architect, retired."

"Landscape architect, retired" means a person who has retired from working as a landscape architect in all states of registration, who has requested "landscape architect, retired" status on the licensure renewal form, and whose request for "landscape architect, retired" status has been approved by the board.

"L.A.R.E." means the landscape architecture registration examination.

"Years of practical experience" means, for each year of practical experience the applicant has worked performing landscape architectural services, a minimum of 2,080 hours per year.

[**ARC 0213C**, IAB 7/25/12, effective 8/29/12]

193D—2.2(544B,17A) Application. An application to take the written examination shall be submitted on the form provided by the board and must be received in the board office no later than the last day of March for the June examination and the last day of September for the December examination. Candidates who successfully complete the examination may make application for certificate of licensure after meeting the requirements of Iowa Code section 544B.9.

2.2(1) The "practice of landscape architecture" means the performance of professional services such as consultations, investigations, reconnaissance, research, planning, design, or responsible supervision in connection with projects involving the arrangement of land and the elements thereon for public and private use and enjoyment, including the alignment of roadways and the location of buildings, service areas, parking areas, walkways, steps, ramps, pools and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape and aesthetic values, in accordance with accepted professional standards of public health, welfare and safety. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this chapter but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of public streets and highways, utilities, storm and sanitary sewers, and sewage treatment facilities, such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of land surveys or final land plats for official approval or recording. Nothing contained in this chapter shall be construed as authorizing a professional landscape architect to engage in the practice of architecture, engineering, or land surveying.

2.2(2) Each applicant shall submit with the formal application for a certificate of licensure evidence of the years of practical experience.

193D—2.3(544B,17A) Procedure for processing applications. Each application shall be considered individually by the board. A personal appearance before the board, if required, shall be at the time and place designated by the board. Failure to supply additional evidence or information within 30 days from the date of the written request from the board, or failure to appear before the board when an appearance is requested, may be considered cause for disapproval of the application. Unless otherwise provided

by law, a request for a rehearing before the board shall be filed with the board in accordance with 193—7.39(543,272C). A judicial review can be filed in accordance with Iowa Code section 17A.19.

193D—2.4(544B,17A) Examination of applicants. Examinations shall be conducted by the board at least once annually. Applicants need not meet preconditions to take the professional landscape architectural licensure examination, but applicants must meet requirements of Iowa Code section 544B.9 for registration.

193D—2.5(544B,17A) Written examination. The written examination shall consist of the professional landscape architectural licensure examination published by CLARB and may include supplementary questions developed by the board.

2.5(1) *Instructions.* A copy of examination instructions and notice of the date and location of the examination will be furnished to each applicant at least 30 days in advance of the examination. The examination is divided into several sections. An applicant may sit for any or all of the sections at a single sitting. Sections which are passed are not required to be repeated. An applicant who intends to sit for any sections not previously passed must file an application for reexamination with the proper fee(s) on a form provided by the board which must be received in the board office no later than the last day of March for the June examination and the last day of September for the December examination.

2.5(2) *Grades.* The board shall notify the examinee of the examination grade.

2.5(3) *Examinations review process.* Candidates may review their own graded examinations using the following procedures:

a. Within a maximum of 30 days from the date of the notification of failure, a written request by the candidate may be filed with the Iowa landscape architectural examining board to include:

(1) Candidate number or name.

(2) Date of examination.

(3) Examination section requested to be reviewed.

b. The review time for each failed section may be limited by the board.

c. A board member or staff person must be present to observe and to provide assistance to the candidate.

d. There shall be no copying or tracing allowed; however, a candidate may take notes.

e. A candidate shall be allowed to review all of the candidate's examination, including evaluation guides and evaluators' score sheets.

f. The candidate shall sign a statement stating the terms of the review procedure.

193D—2.6(544B,17A) Exemption from written examination. The board may exempt from written examination an applicant who meets one of the following criteria:

2.6(1) The applicant holds a current CLARB certificate;

2.6(2) The applicant holds a license to practice landscape architecture issued upon written examination by another jurisdiction, and has submitted a certificate from the jurisdiction of original licensure verifying that the applicant passed the examination in that jurisdiction; or

2.6(3) The applicant:

a. Holds an active license to practice landscape architecture issued by another jurisdiction whose current licensure requirements, including the examination requirements, are substantially equivalent to or exceed those required for licensure as a landscape architect in Iowa, and during the time period in which the applicant was issued an initial license in the other jurisdiction, that jurisdiction did not require a written examination for initial applicants, but did require board review and approval of education and experience designed to demonstrate competence to practice;

b. Was grandparented in under the laws of the other jurisdiction, before written examinations for initial licensure were mandated by the other jurisdiction; and

c. Submits a certificate from the jurisdiction of original licensure verifying that the applicant was licensed during the period in which there was no written examination and submits proof of license in good standing.

[**ARC 2709C**, IAB 9/14/16, effective 10/19/16]

193D—2.7(544B,17A) Certificate of licensure. Applicants will be notified by the board of their eligibility or ineligibility.

2.7(1) *Payment.* Upon payment of the license fee, the board will issue the certificate of licensure to an eligible professional landscape architect.

2.7(2) *License number.* The certificate will indicate the license number of the landscape architect which must appear on the professional landscape architect's seal and on all works signed by the professional landscape architect.

2.7(3) *Certificate.* Only one certificate of licensure shall be issued to a professional landscape architect. The certificate shall be displayed in a conspicuous place at the place of employment.

193D—2.8(17A,272C,544B) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

2.8(1) It is the policy of the board to e-mail to each registrant a notice of the pending expiration date at the registrant's last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

2.8(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education as required as a condition for registration. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.8(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between $50 and $250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.8(4) The board may notify registrants whose certificates of registration have expired. The failure of the board to provided this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

2.8(5) A registrant who continues to practice landscape architecture in Iowa after registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.8(6) Licensees shall notify the board within 30 days of any change of address or business connection.

2.8(7) Retired status. A person who held a registration as a professional landscape architect, who is retired from the practice of landscape architecture in all states of registration, and who has applied for and has been granted retired status from the board may use the title "professional landscape architect, retired" or "PLA, retired." If the board determines an applicant is eligible, the retired status would become effective on the first scheduled registration renewal date. Applicants do not need to reinstate an expired registration to be eligible for retired status. Applicants may apply for retired status on forms provided by the board. The board will not provide a refund of biennial registration fees if an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Licensees with retired status are exempt from the renewal requirement.

a. Permitted practices. Persons registered in retired status may engage in the practices identified in paragraph 2.8(8)*"c."* Such persons may also provide services as technical experts before a court, including pre-litigation preparation, discovery, and testimony, on matters directly related to landscape architectural services provided by such persons prior to registering with the board in retired status.

b. Exemption. A person whose registration as a landscape architect has been placed on probation, suspended, revoked, or voluntarily surrendered in connection with a disciplinary investigation or proceeding shall not be eligible for retired status unless the board, upon appropriate application, first reinstates the registration to good standing.

2.8(8) Inactive status. This subrule establishes a procedure under which a person issued a certificate of registration as a landscape architect may apply to the board to register as inactive. Registration under this subrule is available to a registrant residing within or outside the state of Iowa who is not using the title "landscape architect" while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to such registration, allow the certificate of registration to lapse. During any period of inactive status, a person shall not engage in the practice of landscape architecture while using the title "landscape architect" or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons registered as inactive, including information which is not routinely maintained after a certificate of registration has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

a. Affirmation. The renewal application shall contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title "landscape architect" in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193D—2.9(544B,17A).

b. Renewal. A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193D—2.8(544B,272C,17A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193D—2.10(544B,17A). An inactive certificate of registration shall lapse if not timely renewed.

c. Permitted practices. A person may, while registered as inactive or retired, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of registration has never been issued. For an "inactive" registrant, such services may be performed as long as the person does not in connection with such services use the title "landscape architect" or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as "inactive"). Restricted titles may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education. A "landscape architect, retired" may use the "landscape architect, retired" title; however, the person shall inform anyone to whom the person is providing services that the person once held an active landscape architect license but is no longer actively licensed or permitted to practice landscape architecture.

d. *Prohibited practices.* A person who, while registered as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.
[**ARC 0213C**, IAB 7/25/12, effective 8/29/12]

193D—2.9(544B,17A) Reinstatement.

2.9(1) Reinstatement to active status from lapsed status.

a. An individual may reinstate an expired certificate of registration to active status within two years of expiration by:

(1) Paying the reinstatement fee of $25 per month of expired registration;

(2) Paying the current renewal fee;

(3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and

(4) Submitting documented evidence of completion of 12 contact hours of continuing education in health, safety, welfare subjects for each year or portion of a year of expired registration in compliance with requirements in 193D—Chapter 3. The hours reported shall be in addition to the 24 hours in health, safety, welfare subjects which should have been reported on the June 30 renewal date on which the registrant failed to renew. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.

Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

b. An individual may reinstate to active status a certificate of registration which has been expired for more than two years by:

(1) Paying the reinstatement fee of $25 per month of expired registration up to a maximum of $750;

(2) Paying the current renewal fee;

(3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and

(4) Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than 48 hours in health, safety, welfare subjects; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the L.A.R.E. as a prerequisite to reinstatement to active status.

2.9(2) Reinstatement to inactive status from lapsed status. An individual may reinstate a lapsed certificate of registration to inactive status as follows:

a. Reinstatement fees. The individual shall:

(1) Pay the reinstatement fee of $25 per month of expired registration up to a maximum of $100 if the application for reinstatement is filed on or before June 30, 2009.

(2) Pay the reinstatement fee of $25 per month of expired registration up to a maximum of $750 if the application for reinstatement is filed on or after July 1, 2009.

b. The individual shall pay the current renewal fee.

c. The individual shall provide a written statement in which the individual affirms that the individual has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544B.18 during the period of lapsed registration.

2.9(3) Reinstatement to active status from inactive status or retired status. An individual may reinstate an inactive registration or retired registration to active registration as follows:

a. The individual shall pay the current active registration fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.

b. The individual shall submit documented evidence of completion of 24 contact hours (16 contact hours in public protection subjects) of continuing education in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.

c. Continuing education for subsequent renewals.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the individual shall not be required to report continuing education.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the individual shall report 12 hours of previously unreported continuing education.

2.9(4) An individual shall not be allowed to reinstate to inactive status from retired status.

193D—2.10(544B,17A) Fee schedule. The appropriate examination fee or examination exemption filing fee shall accompany the application. Filing fees are not refundable.

Examination fee	not to exceed $1000
Initial examination filing fee	$50
Proctoring fee	$50
Examination exemption fee	$300
(This certificate of registration is to be effective to the June 30 which is at least 12 months beyond the date of the application.)	
Wall certificate fee	$50
Wall certificate replacement fee	$25
Certificate of registration fee	$15/month
(This certificate of registration is to be effective the day of board action until June 30.)	
Biennial registration fee (active)	$350
Biennial registration fee (inactive)	$100
Reinstatement of lapsed registration	not to exceed $750
"Landscape architect, retired" status	$0 (No fee)

[**ARC 0213C**, IAB 7/25/12, effective 8/29/12]

These rules are intended to implement Iowa Code chapters 17A and 544B.

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

199—10.1(479) General information.

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

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

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

"Approximate right angle" means within 5 degrees of a 90 degree angle.

"Board" means the utilities board within the utilities division of the department of commerce.

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

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

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

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

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

"Underground storage" means storage of gas in a subsurface stratum or formation of the earth.

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

199—10.2(479) Petition for permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The legal description of the property.

(2) The legal description of the desired easement.

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

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

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

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

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

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

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

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

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

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

10.2(3) Statement of damage claims.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Service requirements and planning which have resulted in the proposed project.

b. When the pipeline will be constructed.

c. In general terms, the elements involved in pipeline construction.

d. In general terms, the rights which the prospective petitioner will seek to acquire through easements.

e. Procedures to be followed in contacting affected parties for specific negotiations in acquiring voluntary easements.

f. Methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount for each component.

g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.

h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties but not limited to computation of amounts and manner of payment.

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

This rule is intended to implement Iowa Code section 479.5.

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

199—10.4(479) Notice of hearing.

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

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

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

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

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

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

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

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

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

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

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

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

199—10.9(479) Amendment of permits.

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

a. Construction of a pipeline paralleling an existing line of petitioner;

b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);

c. Relocation of an existing pipeline of petitioner which:

(1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or

(2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 199—10.3(479) shall be held for these relocations.

d. Contiguous extension of an underground storage area of petitioner; or

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

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

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

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

199—10.10(479) Fees and expenses.

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

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

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

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

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

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

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

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

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through October 19, 2016.

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through October 19, 2016.

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through October 19, 2016.

d. ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

e. 199—Chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

f. At railroad crossings, 199—42.7(476), "Engineering standards for pipelines."

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

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

10.12(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

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

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

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

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

10.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the petitioner as required in paragraph 10.2(1)*"e."*

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

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

199—10.17(479) Reports to federal agencies.

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

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

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

10.17(4) The board shall be notified, as soon as practical, of any reportable incident by e-mail to the duty officer at dutyofficer@iub.iowa.gov or, if e-mail is not available, by calling the board duty officer at (515)745-2332.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

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

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

a. Abandonment or removal from service.

b. Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.

c. Pressure test, uprating, or increase in operating pressure.

d. Change in product being transported.

e. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

f. Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

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

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

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

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

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

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

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

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

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

199—19.1(476) General information.

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

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

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

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

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

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

Btu—British thermal unit

LP-Gas—Liquefied Petroleum Gas

psig—Pounds per Square Inch, Gauge

W.C.—Water Column

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

"Board" means the Iowa utilities board.

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

"Cubic foot" of gas has the following meanings:

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

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

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

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

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

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

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

"Heating and calorific values." The following values shall be used:

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

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

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

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

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

4. *"Therm"* means 100,000 British thermal units.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Name of Public Utility)
Gas Tariff
Filed with
Iowa Utilities Board

(date)

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

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

Tariff No. _____
Supersedes Tariff No. _____

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

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

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

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

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

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

(2) Issuing official and issue date.

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

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

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

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

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

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

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

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

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

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

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

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

(3) General statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.

(4) General statement of the utility's policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.

(5) A statement indicating the minimum number of days allowed for payment after the due date of the customer's bill before service will be discontinued for nonpayment.

(6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.

(7) Forms of standard contracts required of customers for the various types of service available.

(8) All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

(9) A copy of each type of customer bill.

(10) Definitions of classes of customer.

(11) Rules for extending service in accordance with 19.3(10).

(12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

(13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.

(14) Rules governing disconnecting and reconnecting service.

(15) Notice required from customer for having service discontinued.

(16) Rules covering temporary, emergency, auxiliary, and stand-by service.

(17) Rules shall show any limitations on loads and cover the type of equipment which may or may not be connected.

(18) Rate-regulated utilities shall include a list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.

(19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.

(20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

(21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

(22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

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

a. *System map verification.* A utility shall file annually with the board a verification that it has a correct set of utility system maps for each operating or distribution area. The maps shall show:

(1) Peak shaving facilities location.

(2) Feeder and distribution mains indicating size and pressure.

(3) System metering (town border stations and other supply points).

(4) Regulator stations in system indicating inlet and outlet pressures.

(5) Calorimeter location.

(6) State boundary crossing.

(7) Franchise area.

(8) Names of all communities (post offices) served.

b. *Incident reports.* Rescinded IAB 1/30/08, effective 3/5/08.

c. *Construction programs.* Rescinded IAB 11/19/97, effective 12/24/97.

d. *Reports of gas service.* Each utility shall compile a monthly record of gas service. The record shall be completed within 30 days after the end of the month covered. The compilation is to be kept

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

(1) The daily and monthly average of total heating values of gas in accordance with 19.7(6).

(2) The monthly acquisition and disposition of gas.

(3) Interruptions of service occurring during the month in accordance with 19.7(7). If there were no interruptions, then it should be so stated.

(4) The number of customer pressure investigations made and the results.

(5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.

(6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.

(7) Number of district regulators checked and nature of repairs required.

(8) Number of house regulators checked and nature of repairs required.

(9) Description of any unusual operating difficulties.

(10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

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

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

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

g. Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through October 19, 2016, shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

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

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

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

(1) Number of accounts;

(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;

(3) Number of accounts past due;

(4) Number of accounts eligible for energy assistance and past due;

(5) Total revenue owed on accounts past due;

(6) Total revenue owed on accounts eligible for energy assistance and past due;

(7) Number of disconnection notices issued;

(8) Number of disconnection notices issued on accounts eligible for energy assistance;

(9) Number of disconnections for nonpayment;

(10) Number of reconnections;

(11) Number of accounts determined uncollectible; and

(12) Number of accounts eligible for energy assistance and determined uncollectible.

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

This rule is intended to implement Iowa Code section 476.2.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—19.3(476) General service requirements.

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

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

(1) Where the consumption of gas may be readily computed without metering; or

(2) For temporary service installations.

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

(1) Where gas is used in centralized heating, cooling or water-heating systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

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

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

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

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

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

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

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

a. Customer's name, address, rate schedule, or identification of rate schedule.

b. Identifying number or description of the meter(s).

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant, or reference thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. Service lines.

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

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

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

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

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

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

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

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

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

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

This rule is intended to implement Iowa Code section 476.8.

[**ARC 7584B**, IAB 2/25/09, effective 4/1/09; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—19.4(476) Customer relations.

19.4(1) *Customer information.* Each utility shall:

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

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

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

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

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

i. Promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

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

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

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

19.4(2) *Customer deposits.*

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

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

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

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

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

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

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

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

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

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

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

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

a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.

b. The dates on which the meter was read at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule or identification of the applicable rate schedule.

e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

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

19.4(10) *Payment agreements.*

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

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

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

c. Terms of payment agreements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Service may be disconnected without notice:

(1) In the event of a condition determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

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

(1) For violation of or noncompliance with the utility's rules on file with the board.

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

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

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

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

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

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

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

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

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

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

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

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

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

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

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

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

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

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

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

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)*"d"*(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)*"d."*

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period

that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15)*"f."*

(9) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(10) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect gas service without the written 12-day notice for failure of the customer to comply with the terms of a payment agreement, except as provided in numbered paragraph 19.4(10)*"c"*(1)"4," provided the utility complies with the provisions of paragraph 19.4(15)*"d."*

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

19.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill rendered in accordance with paragraph 19.4(13)*"b"* (slow meters).

f. Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13)*"e."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.

h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

19.4(17) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

19.4(18) *Change in character of service.* The following shall apply to a material change in the character of gas service:

a. *Changes under the control of the utility.* The utility shall make such changes only with the approval of the board, and after adequate notice to the customers (see 19.7(6)*"a"*).

b. Changes not under control of the utility or customer. The utility shall adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (see 19.7(6)*"b"*).

c. Appliance adjustment charge. The utility shall make any necessary adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

19.4(19) *Customer complaints.* Each utility shall investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to safety, service, or rates, and the operation of its system as will enable it to review and analyze its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.

[**ARC 9101B**, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

199—19.5(476) Engineering practice.

19.5(1) *Requirement for good engineering practice.* The gas plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

19.5(2) *Standards incorporated by reference.*

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through October 19, 2016.

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through October 19, 2016.

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through October 19, 2016.

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through October 19, 2016.

(5) ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

(6) NFPA 59-2004, "Utility LP-Gas Plant Code."

(7) At railroad crossings, 199—42.7(476), "Engineering standards for pipelines."

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2015, "National Fuel Gas Code."

(2) NFPA 501A-2013, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

19.5(3) *Adequacy of gas supply.* The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

19.5(4) *Gas transmission and distribution facilities.* The utility's gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Each utility shall be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the board will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

19.5(5) *Inspection of gas plant.* Each utility shall adopt a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—19.6(476) Metering.

19.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The board considers the publications listed in 19.6(3) to be representative of accepted good practice. Each utility shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

19.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before being placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. Leak testing of meters before return to service.

f. The limits of meter accuracy considered acceptable by the utility.

g. The nature of meter and meter test records maintained by the utility.

19.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000.

b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000.

c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000.

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2008).

e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

19.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

19.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

19.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit in the form of a check or money order made payable to the utility.

Within 5 days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 19.4(13). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

19.6(7) *Condition of meter.* No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with 19.6(2)*"b," "c,"* and *"e,"* shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09]

199—19.7(476) Standards of quality of service.

19.7(1) *Purity requirements.* All gas supplied to customers shall be substantially free of impurities which may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner.

19.7(2) *Pressure limits.* The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

19.7(3) *Adequacy for pressure.* Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

19.7(4) *Standards for pressure measurements.*

a. *Secondary standards.* Each utility shall own or have access to a dead weight tester. This instrument must be maintained in an accurate condition.

b. *Working standards.* Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system. Working standards must be checked periodically by comparison with a secondary standard.

19.7(5) *Handling of standards.* Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

19.7(6) *Heating value.*

a. *Awareness.* Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. *Natural and LP-gas.* The heating value of natural gas and undiluted, commercially pure LP-gas shall be considered as being not under the control of the utility. The utility shall determine the allowable range of monthly average heating values within which its customers' appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers' appliances must be readjusted in accordance with 19.4(18)*"c."*

c. *Peak shaving or other mixed gas.* The heating value of gas in a distribution system which includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, shall be considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

d. Heating value determination and records. Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, the utility shall provide and maintain equipment, or shall have a method of computation, by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations and shall be subject to review by the board.

19.7(7) *Interruptions of service.*

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Each utility shall maintain records for not less than two years of interruptions of service as required to be reported in 19.17(1) and shall periodically review these records to determine steps to be taken to prevent recurrence.

b. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

199—19.8(476) Safety.

19.8(1) *Acceptable standards.* As criteria of accepted good safety practice the board will use the applicable provisions of the standard listed in 19.5(2).

19.8(2) *Protective measures.* Each utility shall exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size and type of its operations. The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents. Each utility shall maintain a summary of all reportable accidents arising from its operations.

19.8(3) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-2015).

19.8(4) *Gas leaks.* A report of a gas leak shall be considered as an emergency requiring immediate attention.

19.8(5) *Odorization.* Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Suitable tests must be made to determine whether the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

19.8(6) *Burial near electric lines.* Each pipeline shall be installed with at least 12 inches of clearance from buried electrical conductors. If this clearance cannot be maintained, protection from damage or introduction of current from an electrical fault shall be provided by other means.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—19.9(476) Energy conservation strategies. Rescinded IAB 11/12/03, effective 12/7/03.

199—19.10(476) Purchased gas adjustment (PGA).

19.10(1) *Purchased gas adjustment clause.* Purchased gas adjustments shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz)}{S} + Rb + E$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

Unless a utility receives prior board approval to use another methodology, a utility shall use the same weather normalization methodology used in prior approved PGA and rate case.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z which will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

19.10(2) *Annual purchased gas adjustment filing.* Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors. The utility shall provide an explanation of the calculations of each factor. Information already on file with the board may be incorporated by reference in the filing.

19.10(3) *Periodic changes to purchased gas adjustment clause.* Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in Rc, Rd, or Rz with concurrent board notification with adequate information to calculate and

support the change. The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

19.10(4) *Factor Rb.* Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

19.10(5) *Take-or-pay adjustment.* Rescinded IAB 11/12/03, effective 12/17/03.

19.10(6) *Allocations of changes in contract pipeline transportation capacity obligations.* Any change in contractual pipeline transportation capacity obligations to transportation or storage service providers serving Iowa must be reported to the board within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

19.10(7) *Reconciliation of underbillings and overbillings.* The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. The annual reconciliation filing shall include the following information concerning the hedging tools used by the utility:

(1) The type and volume of physical gas being hedged.

(2) The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).

(4) The date the futures contract or option was purchased or the date the swap was entered into.

(5) The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.

(6) The amount of all commissions paid and to whom those payments were made.

(7) All administrative costs associated with the hedge.

(8) The name(s) of all marketers used and the amount of money paid to each marketer.

(9) The amount of savings or costs resulting from the hedge.

(10) The amount of money tied up in margin accounts for futures trading and the cost of that money.

(11) The premium paid for each option.

(12) The strike price of each option.

(13) The contracting costs for each swap transaction.

(14) The name of the fixed-price payer in a swap transaction.

(15) A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.

(16) An explanation as to why the LDC believes the hedge was in the best interest of general system customers.

(17) All invoices, work papers, and internal reports associated with the hedge.

b. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation shall be refunded to the customer classification or grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility shall refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year. The minimum amount to be refunded by check shall be $10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be $10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

19.10(8) *Refunds related to gas costs charged through the PGA.* The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund, plus accrued interest, if the refund exceeds $10 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed $10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

(1) A statement of reason for the refund.

(2) The amount of the refund with support for the amount.

(3) The balance of the appropriate refund retention accounts.

(4) The amount due under each customer classification or grouping.

(5) The intended period of the refund distribution.

(6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8)*"d."*

(7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.

(8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)*"d."*

(9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.

(10) The calculations demonstrating that the retained balance is less than $10 per average residential customer with supporting schedules for all factors used.

c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check shall be $5.

This rule is intended to implement Iowa Code section 476.6(11).

199—19.11(476) Periodic review of gas procurement practices [476.6(15)].

19.11(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The board shall provide the utilities 90 days' notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board's review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility's procurement plan shall be organized as follows and shall include:

a. An index of all documents and information filed in the plan and identification of the board files in which documents incorporated by reference are located.

b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and 3-year periods.

c. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

d. A summary of the legal and regulatory actions taken to minimize purchased gas costs.

e. All studies or investigation reports considered in gas purchase contract or arrangement decisions during the plan periods.

f. A complete list of all contracts executed since the last procurement review.

g. A list of other unbundled services available (for example, storage services if offered).

h. A description of the supply options selected and an evaluation of the reasonableness and prudence of its decisions. This evaluation should show the relationship between forecast and procurement.

19.11(2) *Gas requirement forecast.* Rescinded IAB 4/3/91, effective 3/15/91.

19.11(3) *Annual review proceeding.* Rescinded IAB 2/9/00, effective 3/15/00.

19.11(4) *Evaluation of the plan.* The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased gas costs. The board will evaluate the reasonableness and prudence of the gas procurement plan.

19.11(5) *Disallowance of costs.* The board shall disallow any purchased gas costs in excess of costs incurred under responsible and prudent policies and practices. The PGA factor shall be adjusted prospectively to reflect the disallowance.

19.11(6) *Executive summary.* On or before August 1, 2003, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. On or before August 1 each year thereafter, each natural gas utility shall file an update of the executive summary and index showing the standard and special contracts in effect on that date for the purchase, sale or interchange of gas. The executive summary shall include the following information:

a. The contract number;

b. The start and end date;

c. The parties to the contract;

d. The total estimated dollar value of the contract;

e. A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(15).

199—19.12(476) Flexible rates.

19.12(1) *Purpose.* This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.12(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

19.12(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

19.12(4) *Reporting requirements.* Each natural gas utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The cost of alternate fuels available to the customer, if relevant;

(5) The volume of gas sold to or transported for the customer in the preceding 12 months; and

(6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month;

(5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and

(6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The volume of gas sold or transported in the last 12 months to each customer, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

d. No report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

19.12(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were provided at full tariffed rate for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—19.13(476) Transportation service.

19.13(1) *Purpose.* This subrule requires gas distribution utility companies to transport natural gas owned by an end-user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. System capacity is defined as the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability shall be determined using the total current firm gas flow, including both system and transportation gas.

19.13(2) *End-user rights.* The end-user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end-user shall have the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes which the end-user is entitled to receive shall be subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category which the end-user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the party is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end-user, adjusted for lost, unaccounted-for, and company-used gas. The credit shall be available at any time, within the conditions of the agreement.

d. The end-user shall be responsible for all costs associated with any additional plant required for providing transportation services to the end-user.

19.13(3) *Transportation service charges.* Transportation service shall be offered to at least the following classes:

a. Interruptible service with system supply reserve.

b. Interruptible service without system supply reserve.

c. Firm service with system supply reserve.

d. Firm service without system supply reserve.

19.13(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service shall entitle the end-user to return to the system service to the extent of the capacity purchased. The charge shall be at least equal to the administrative costs of monitoring the service, plus any other costs (including but not limited to gas demand costs which are directly assignable to the end-user).

b. End-users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate system capacity. An end-user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end-user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs (including but not limited to gas costs).

c. The utility may require a reconnection charge when an end-user receiving transportation service without system supply reserve service requests to return to the system supply. The end-user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end-user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

e. Small volume transportation service. Rescinded IAB 4/28/04, effective 6/2/04.

f. Optional plan filing. Rescinded IAB 4/28/04, effective 6/2/04.

19.13(5) *Reporting requirements.* A natural gas utility shall file with the board two copies of each transportation contract entered into within 30 days of the date of execution. The utility may delete any information identifying the end-user and replace it with an identification number. The utility shall promptly supply the deleted information if requested by the board staff. The deleted information may be filed with a request for confidentiality, pursuant to 199 Iowa Administrative Code rule 1.9(22).

19.13(6) *Written notice of risks.* The utility must notify its large volume users as defined in 19.14(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

199—19.14(476) Certification of competitive natural gas providers and aggregators.

19.14(1) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

"Competitive natural gas provider" or *"CNGP"* means a person who takes title to natural gas and sells it for consumption by a retail end user in the state of Iowa, and it also means an aggregator as defined in Iowa Code section 476.86. CNGP includes an affiliate of an Iowa public utility. CNGP excludes the following:

1. A public utility which is subject to rate regulation under Iowa Code chapter 476.

2. A municipally owned utility which provides natural gas service within its incorporated area or within the municipal natural gas competitive service area, as defined in Iowa Code section 437A.3(21)*"a"*(1), in which the municipally owned utility is located.

"Competitive natural gas services" means natural gas sold at retail in this state excluding the sale of natural gas by a rate-regulated public utility or a municipally owned utility as provided in the definition of CNGP in 19.14(1).

"Large volume user" means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

"Small volume user" means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

"Vehicle fuel provider" or *"VFP"* means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

19.14(2) *General requirement to obtain certificate.* A CNGP shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the board pursuant to Iowa Code section 476.87. An exception to this requirement is a CNGP that has provided service to retail customers before April 25, 2001. A CNGP subject to this exception shall file for a certificate under the provisions of this rule on or before June 1, 2001, to continue providing service pending the approval of the certificate.

19.14(3) *Filing requirements and application process.* Applications for a certificate to provide service as a competitive natural gas provider shall be filed electronically through the board's electronic filing system. Instructions for making an electronic filing can be found on the board's electronic filing system Web site at http://efs.iowa.gov. Application forms can be found on the board's Web site at http://iub.iowa.gov or may be requested from the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319.

a. An application fee of $125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant may be billed an hourly rate for actual time spent by the board reviewing the application. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.

b. Applications to provide service as a competitive natural gas provider pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the competitive natural gas provider or aggregator proposes to offer. Application forms to provide competitive natural gas service to large volume, small volume, and vehicle fuel providers can be accessed on the board's Web site, http://iub.iowa.gov. All applications shall include, at a minimum, the following information:

(1) The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant's state of incorporation.

(2) Names, addresses, and telephone numbers of corporate officers responsible for the applicant's operations in Iowa, and a telephone number where the applicant can be contacted 24 hours a day.

(3) Identification of the states and jurisdictions in which the applicant or an affiliate is providing natural gas service.

(4) A commitment to comply with all the applicable conditions of certification contained in subrules 19.14(5) and 19.14(6) and acknowledgment that failure to comply with all the applicable conditions of certification may result in the revocation of the competitive natural gas provider's certificate.

c. A request for confidential treatment of the information required to obtain a competitive natural gas provider certificate may be filed with the board pursuant to 199—subrule 1.9(6).

d. An applicant shall notify the board during the pendency of the certification request of any material change in the representations and commitments made in the application within 14 days of such change. Any new legal actions or formal complaints are considered material changes in the request. Once certified, CNGPs shall notify the board of any material change in the representations and commitments required for certification within 14 days of such change.

19.14(4) *Deficiencies and board determination.* The board shall act on a certification application within 90 days unless it determines an additional 60 days is necessary. Applications will be considered complete and the 90-day period will commence when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applicants will be notified when their application is complete and the 90-day period commences.

19.14(5) *Conditions of certification.* CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

a. Unauthorized charges. A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

b. Notification of emergencies. Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. *Reports to the board.* Each CNGP shall file a report with the board on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the board, which can be accessed on the board's Web site, http://iub.iowa.gov. This information may be filed with a request for confidentiality, pursuant to 199—subrule 1.9(6). For each utility distribution system, the report shall include, at a minimum, total monthly and annual sales volumes, total monthly revenues, and total number of customers served each month as of December 31 of the applicable year.

d. Rescinded IAB 4/28/04, effective 6/2/04.

19.14(6) *Additional conditions applicable to CNGPs providing service to small volume end users.* All CNGPs when providing service to small volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.14(5):

a. *Customer deposits.* Compliance with the following provisions shall apply to customers whose usage does not exceed 2500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule 19.4(2)

Interest on customer deposits – subrule 19.4(3)

Customer deposit records – subrule 19.4(4)

Customer's receipt for a deposit – subrule 19.4(5)

Deposit refund – subrule 19.4(6)

Unclaimed deposits – subrule 19.4(7)

b. *Bills to end users.* A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

(1) The period of time for which the billing is applicable.

(2) The amount owed for current service, including an itemization of all charges.

(3) Any past-due amount owed.

(4) The last date for timely payment.

(5) The amount of penalty for any late payment.

(6) The location for or method of remitting payment.

(7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.

(8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.

(9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.

(10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. *Disclosure.* Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information required by this paragraph may be provided electronically, at the customer's option.

d. *Notice of service termination.* Notice must be provided to the end user and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. *Transfer of accounts.* CNGPs are prohibited from transferring the account of any end user to another supplier except with the consent of the end user. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

(1) The transferee will serve the affected end users through a certified CNGP;

(2) The transferee will honor the transferor's contracts with the affected end users;

(3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;

(4) Any affected end user is given 30 days to change supplier without penalty; and

(5) The transferor provides notice to the public utility of the effective date of the transfer.

f. *Bond requirement.* The board may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the board and reviewed by the board from time to time. In determining the adequacy of the bond or demonstration, the board shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served, with the objective of ensuring that the board's financial requirements do not create unreasonable barriers to market entry.

g. *Replacement cost for supply failure.* Each individual rate-regulated public utility shall file for the board's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the rate-regulated public utility's system purchased gas adjustment.

[Editorial change: IAC Supplement 12/29/10; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

199—19.15(476) Customer contribution fund.

19.15(1) *Applicability and purpose.* This rule applies to each gas public utility, as defined in Iowa Code sections 476.1 and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

19.15(2) *Program plan.* Each utility shall have on file with the board a detailed description of its program plan. At a minimum, the plan shall include the following information:

a. A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

b. A sample of the customer notification with a description of the method and frequency of its distribution;

c. A sample of the authorization form provided to customers; and

d. The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

19.15(3) *Notification.* Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s)

of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

a. A description of the availability and the purpose of the fund;

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

19.15(4) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

19.15(5) *Annual report.* On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

19.15(6) *Binding effect.* A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—19.16(476) Reserve margin.

19.16(1) *Applicability.* All rate-regulated gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the purchased gas adjustment.

19.16(2) *Definitions.*

a. *Contract services.* The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities, but excluding the delivery capacity of propane storage facilities, shall be considered as contract services.

b. *Maximum daily system demand requirements.* The maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. *Design day.* The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

19.16(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.* A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.* A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.16(5) *Rebuttable presumption.* All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be

made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

19.16(6) *Allocation of cost of the reserve.* Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

199—19.17(476) Incident notification and reports.

19.17(1) *Notification.* A utility shall notify the board immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

a. A death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and to others, including the cost of gas lost.

c. Emergency shutdown of a liquefied natural gas (LNG) facility.

d. An interruption of service to 50 or more customers.

e. Any other incident considered significant by the utility.

19.17(2) *Information required.* The utility shall notify the board by e-mail, as soon as practical, of any reportable incident at dutyofficer@iub.iowa.gov or, when e-mail is not available, by calling the board duty officer at (515)745-2332. The person sending the e-mail or the caller shall leave a call-back number for a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. An initial estimate of damages.

f. The number of services interrupted.

g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.

h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

19.17(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the board. The report shall include the information required for telephone notice in subrule 19.17(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board shall also be provided to the board.

[Editorial change: IAC Supplement 12/29/10; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

199—19.18(476) Capital infrastructure investment automatic adjustment mechanism.

19.18(1) *Eligible capital infrastructure investment.* A rate-regulated natural gas utility may file for board approval a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

a. Meet the following criteria:

(1) The costs are beyond the direct control of management;

(2) The costs are subject to sudden, important change in level;

(3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and

(4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or

b. Be costs for a capital infrastructure investment which:

(1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and

(3) Replaces or modifies existing infrastructure required by state or local government action or is required to meet state or federal natural gas pipeline safety regulations.

c. Recovery of additional costs for eligible infrastructure investment through an automatic adjustment mechanism under paragraph 19.18(1)*"b"* shall not be allowed after four years from December 7, 2011. The costs of eligible capital infrastructure investment included in rates prior to the end of the four-year period may still be recovered until the utility's next general rate proceeding filing or until the unit of capital has been depreciated to zero. The utility shall file a proposed tariff annually for recovery after the end of the four-year period.

19.18(2) *Determination of recovery factor.* The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the average cost of debt from the utility's last general rate review proceeding. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility's last general rate review proceeding.

19.18(3) *Recovery procedures.*

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1)*"a"* through an automatic adjustment mechanism, the utility is required to obtain prior board approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

(1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;

(2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;

(3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;

(4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;

(5) A description of proposed recovery procedures, if different from the procedures described in paragraphs 19.18(3)*"c"* and *"d"*; and

(6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1)*"b"* may be made by the utility by filing a proposed tariff with a 30-day effective date. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The utility shall file information in support of the proposed automatic adjustment rates that includes:

(1) The government entity mandate or action, including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action, that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project.

(2) The location, description, and costs associated with the project.

(3) The cost of debt and applicable depreciation rates from the utility's last general rate review proceeding.

(4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.

(5) The utility shall provide supporting documentation, including but not limited to work orders and journal entries, to the board staff or the office of consumer advocate upon request.

(6) If the capital infrastructure investment to be included in the automatic adjustment mechanism is based upon an integrity or safety plan adopted in compliance with state or federal natural gas pipeline safety regulations, describe the relationship of the capital infrastructure investment to the integrity or

safety plan and the relationship of the integrity or safety plan to a specific state or federal regulation. Provide the date the state or federal regulation was adopted, any relevant compliance dates, and the date the integrity or safety plan was adopted by the utility and how the integrity or safety plan was developed.

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff, unless otherwise ordered by the board. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year's sales volumes with the necessary degree-day adjustments. The utility may also use the degree-day adjustment that the utility utilized in the most recent purchased gas adjustment annual filing or any other appropriate degree-day adjustment. The degree-day adjustment shall not be determinative of any weather normalization adjustment in any future rate case.

d. The utility shall file an annual reconciliation within 60 days of the end of the 12-month period each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period beginning with the effective date of the tariff. Any over-recoveries or under-recoveries from the reconciliation shall be recovered over the ten-month period from the effective date of any adjustment required by the reconciliation.

e. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism approved under this rule shall continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the board in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once final rates approved by the board in the next general rate proceeding are effective, the automatic adjustment mechanism shall reset to zero.
[**ARC 9831B**, IAB 11/2/11, effective 12/7/11]

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

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1 Effective date of 19.3(10)*"a," "b,"*(1), (2), (2)"1," (3) and (4) delayed 70 days by administrative rules review committee.

2 Effective date of 19.4(11), third unnumbered paragraph, delayed 70 days by administrative rules review committee.

3 See IAB, Utilities Division

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CHAPTER 20
SERVICE SUPPLIED BY ELECTRIC UTILITIES
[Prior to 10/8/86, Commerce Commission[250]]

199—20.1(476) General information.

20.1(1) *Authorization of rules.* Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers necessary to carry out the provisions of this law.

Iowa Code chapter 478 provides that the Iowa utilities board shall have power to make and enforce rules relating to the location, construction, operation and maintenance of certain electrical transmission lines.

The application of the rules in this chapter to municipally owned utilities furnishing electricity is limited by Iowa Code section 476.1B, and the application of the rules in this chapter to electric utilities with fewer than 10,000 customers and to electric cooperative associations is limited by the provisions of Iowa Code section 476.1A.

20.1(2) *Application of rules.* The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with 199—1.3(17A,474,476,78GA,HF2206).

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

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

20.1(3) *Definitions.* The following words and terms when used in these rules, shall have the meaning indicated below:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

"Act" means the Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended by Pub. L. 101-549, November 15, 1990.

"Affected unit" means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR) or the Clean Air Mercury Rule (CAMR), or a unit or source that opts in under 40 CFR Part 74.

"Allowance" means an authorization, allocated by the United States Environmental Protection Agency (EPA) under the Acid Rain Program, to emit sulfur dioxide (SO_2), any SO_2 and nitrogen oxide (NO_X) emissions subject to the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), during or after a specified calendar year.

"Allowance forward contract" is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Board" means the utilities board.

"Clean Air Interstate Rule" or *"CAIR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

"Clean Air Mercury Rule" or *"CAMR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.

"Complaint" as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

"Compliance plan" means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

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

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

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Economy energy" is energy bought or sold in a transaction wherein the supplier's incremental cost is less than the buyer's decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.

"Electric plant" includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

"Electric service" is furnishing to the public for compensation any electricity, heat, light, power, or energy.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_X emission allowances.

"Energy" means electric energy measured in kilowatt hours.

"Firm power" is power and associated energy intended to be available at all times during the period covered by the commitment.

"Gains and losses from allowance sales" are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

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

"Operating reserve" is a reserve generating capacity required to ensure reliability of generation resources.

"Operational control energy" is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.

"Outage energy" is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.

"Participation power" means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to prorate or other specified reduction if the units are not operated at full capacity.

"Peaking power" is power and associated energy intended to be available at all times during the commitment and which is anticipated to have low load factor use.

"Power" means electric power measured in kilowatts.

"Price hedging" means using futures contracts or options to guard against unfavorable price changes.

"Rate-regulated utility" means any utility, as defined in 20.1(3),which is subject to board rate regulation under Iowa Code chapter 476.

"Secondary line" means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Service limitation" means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer's meter.

"Service limiter" or *"service limitation device"* means a device that limits a residential customer's power consumption to 3,600 watts (or some higher level of usage approved by the board) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

"Speculation" means using futures contracts or options to profit from expectations of future price changes.

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

"Timely payment" is a payment on a customer's account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

"Transmission line" means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Utility" means any person, partnership, business association or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

"Weighted average unit cost of inventoried allowances" equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

"Wheeling service" is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

20.1(4) *Abbreviations.* The following abbreviations may be used where appropriate:

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018.

DOE—Department of Energy, Washington, D.C. 20426.

EPA—United States Environmental Protection Agency.

FCC—Federal Communications Commission, 1919 M Street, Washington, D.C. 20554.

FERC—Federal Energy Regulatory Commission, Washington, D.C. 20426.

NARUC—National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044.

NBS—National Bureau of Standards, Washington, D.C. 20234.

NFPA—National Fire Protection Association, 470 Atlantic Ave., Boston, Massachusetts 02210.

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199—20.2(476) Records, reports, and tariffs.

20.2(1) *Location and retention of records.* Unless otherwise specified by this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

20.2(2) *Tariffs to be filed with the board.* The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the

board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

20.2(3) *Form and identification.* All tariffs shall conform to the following rules:

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

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

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

(Name of Public Utility)
Electric Tariff
Filed with
Iowa Utilities Board

(Date)

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

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

TARIFF NO. _____
SUPERSEDES TARIFF NO. _____

(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)

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

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed regulation
(D)—Discontinued rate or regulation
(I)—Increase in rate or new treatment resulting in increased rate
(N)—New rate, treatment or regulation
(R)—Reduction in rate or new treatment resulting in reduced rate
(T)—Change in text only

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

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

(2) Issuing official and issue date.

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

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

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

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

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

20.2(4) *Content of tariffs.*

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear showing the sheet numbers of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from the section containing the rate schedules or other sections, it may at its option prepare a separate table of contents for each such segregated section.

b. A preliminary statement containing a brief general explanation of the utility's operations.

c. All rates for service with indication for each rate of the type and voltage of service and the class of customers to which each rate applies. There shall also be shown any limitations on loads and type of equipment which may be connected, the net prices per unit of service and the number of units per billing period to which the net prices apply, the period of billing, the minimum bill, any effect of transformer capacity upon minimum bill or upon the number of kWh in any step of the rate, method of measuring demands, method of calculating or estimating loads in cases where transformer capacity has a bearing upon minimum bill or size of rate steps, level payment plan, and any special terms or conditions applicable. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

d. The voltage and type of service, (direct current or single or polyphase alternating current) supplied in each municipality, but without reference required to any particular part thereof.

e. Forms of standard contracts required of customers for the various types of service available.

f. If service to other utilities or municipalities is furnished at a standard filed rate, either a copy of each signed contract or a copy of the standard uniform contract form together with a summary of the provisions of each signed contract. The summary shall show the principal provisions of the contract and shall include the name and address of the customer, the points where energy is delivered, rate, term, minimum, load conditions, voltage of delivery and any special provisions such as rentals. Standard contracts for such sales as that of energy for resale, street lighting, municipal athletic field lighting, and for water utilities may be filed in summary form as above outlined.

g. Copies of special contracts for the purchase, sale, or interchange of electrical energy. All tariffs must provide that, notwithstanding any other provision of this tariff or contract with reference thereto, all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

h. A list of all communities in which service is furnished.

i. The list of service areas and the rates shall be filed in a form to facilitate ready determination of the rates available in each municipality and in unincorporated communities that have service. If the utility has various rural rates, the areas where the same are available shall be indicated.

j. Definitions of classes of customers.

k. Extension rules for extending service to new customers indicating what portion of the extension or cost thereof will be furnished by the utility; and if the rule is based on cost, the items of cost included.

l. Type of construction which the utility requires the customer to provide if in excess of the Iowa electric safety code or the requirements of the municipality having jurisdiction, whichever may be the most stringent in any particular.

m. Specification of such portion of service as the utility furnishes, owns, and maintains, such as service drop, service entrance cable or conductors, conduits, service entrance equipment, meter and socket. Indication of the portions of interior wiring such as range or water heater connection, furnished in whole or in part by the utility, and statement indicating final ownership and responsibility for maintaining equipment furnished by utility.

n. Statement of the type of special construction commonly requested by customers which the utility allows to be connected, and terms upon which such construction will be permitted, with due provision for the avoidance of unjust discrimination as between customers who request special construction and those who do not. This applies, for example, to a case where a customer desires underground service in overhead territory.

o. Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

p. Rules governing the establishment and maintenance of credit by customers for payment of service bills.

q. Rules governing the procedure followed in disconnecting and reconnecting service.

r. Notice required from a customer for having service discontinued.

s. Rules covering temporary, emergency, auxiliary and stand-by service.

t. Rules covering the type of equipment which may or may not be connected, including rules such as those requiring demand-limiting devices or power-factor corrective equipment.

u. General statement of the method used in making adjustments for wastage of electricity when accidental grounds exist without the knowledge of the customer.

v. Statements of utility rules on meter reading, bill issuance, customer payment, notice of delinquency, and service discontinuance for nonpayment of bill.

w. Rules for extending service in accordance with 20.3(13).

x. If a sliding scale or automatic adjustment is applicable to regulated rates and charges of billed customers, the manner and method of such adjustment calculation shall be covered through a detailed explanation.

y. Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

z. Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

20.2(5) *Annual, periodic and other reports to be filed with the board.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with general requirement 20.3(11) and a statement as to the location of the utility's offices where such maps are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

b. Accident reports. Rescinded IAB 12/11/91, effective 1/15/92. See 199—25.5(476,478).

c. Rescinded IAB 11/13/02, effective 12/18/02.

d. Electric service record. Each utility shall compile a monthly record of electric service showing the production, acquisition and disposition of electric energy, the number of customer terminal voltage investigations made, the number of customer meters tested and such other information as may be required by the board. The monthly "Electric Service" record shall be compiled not later than 30 days after the end of the month covered and such record shall, upon and after compilation, be kept available for inspection by the board or its staff at the utility's principal office within the state of Iowa. A summary of the 12 monthly "Electric Service" records for each calendar year shall be attached to and submitted with the utility's annual report to the board.

e. The utility shall keep the board informed currently by written notice as to the location at which the utility keeps the various classes of records required by these rules.

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

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

h. A copy of the adjustment calculation shall be provided the board prior to each billing cycle on the forms adopted by the board.

i. Rescinded IAB 1/9/91, effective 2/13/91.

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

(1) Number of accounts;

(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;

(3) Number of accounts past due;

(4) Number of accounts eligible for energy assistance and past due;

(5) Total revenue owed on accounts past due;

(6) Total revenue owed on accounts eligible for energy assistance and past due;

(7) Number of disconnection notices issued;

(8) Number of disconnection notices issued on accounts eligible for energy assistance;

(9) Number of disconnections for nonpayment;

(10) Number of reconnections;

(11) Number of accounts determined uncollectible; and

(12) Number of accounts eligible for energy assistance and determined uncollectible.

k. List of persons authorized to receive board inquiries. Each utility shall file with the board in the annual report required in 199—subrule 23.1(2) a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) franchises for electric lines; (6) certificates for electric generating plants. Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about outages and interruptions of service from a knowledgeable person. The contact information required by this paragraph shall be kept current as changes or corrections are made.

This rule is intended to implement Iowa Code section 476.2.

199—20.3(476) General service requirements.

20.3(1) *Disposition of electricity.* The meter and associated instrument transformers shall be owned by the utility. The wiring between the instrument transformers and the meter shall be owned or controlled by the utility. The utility shall place a visible seal on all meters in customer use, such that the seal must be broken to gain entry.

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

(1) Where the consumption of electricity may be readily computed without metering; or

(2) For temporary service installations.

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

(1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means: (1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

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

c. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multioccupancy premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 20.3(1)*"b"* have been met.

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

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

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

20.3(2) *Condition of meter.* Rescinded IAB 11/12/03, effective 12/17/03.

20.3(3) *Meter reading records.* The meter reading records shall show:

a. Customer's name, address, and rate schedule or identification of rate schedule.

b. Identification of the meter or meters either by permanently marked utility number or by manufacturer's name, type number and serial number.

c. Meter readings.

d. If the reading has been estimated.

e. Any applicable multiplier or constant.

20.3(4) *Meter charts.* All charts taken from recording meters shall be marked with the initial and final date and hour of the record, the meter identification, customer's name and location and the chart multiplier.

20.3(5) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter.

Where magnetic tape or other delayed processing means is used the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

20.3(6) *Meter reading and billing interval.* Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be rendered weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the board. A waiver request must include sufficient information to comply with 199—1.3(17A,474,476,78GA,HF2206). If the board denies a waiver, or if a waiver is not sought with respect to a high demand customer after the initial month, that customer's meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each meter-reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be rendered.

If an actual meter reading cannot be obtained, the utility may render an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be rendered.

20.3(7) *Demand meter registration.* When a demand meter is used for billing, the meter installation should be designed so that the highest expected annual demand reading to be used for billing will appear in the upper half of the meter's range.

20.3(8) *Service areas.* Service areas are defined by the boundaries on service area maps, available for viewing during regular business hours at the board's offices, and available for purchase at the cost of reproduction. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

20.3(9) *Petition for modification of service area and answers.* An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

Any electric utility or municipal corporation may file a petition for modification of service area which shall contain a legal description of the service area desired, a designation of the utilities involved in each boundary section, and a justification for the proposed service area modification. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with paragraph 20.3(11)*"a"* shall be attached to the petition as an exhibit.

Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.

All parties shall file an answer which complies with 199—subrule 7.5(1).

20.3(10) *Certificate of authority.* Any electric utility or municipal corporation requesting a service territory modification pursuant to subrule 20.3(9) which would result in service to a customer by a utility other than the utility currently serving the customer must also petition the board for a certificate of authority under Iowa Code section 476.23. The electric utility or municipal corporation shall pay the party currently serving the customer a reasonable price for the facilities serving the customer.

20.3(11) *Maps.*

a. Each utility shall maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps shall include the exact location of the following:

(1) Generating stations with capacity designation.

(2) Purchased power supply points with maximum contracted capacity designation.

(3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations with transformer voltage and capacity designation.

(7) Distribution lines with size and type of conductor designation, phase designation and voltage designation.

(8) All points at which transmission, distribution or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes which cover more than 50 acres and all rivers.

(12) Any additional information required by the board.

b. All maps shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

20.3(12) Rescinded, IAB 6/29/88, effective 8/3/88.

20.3(13) *Plant additions, electrical line extensions and service lines.*

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

"Advance for construction," as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the extensive plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining tax liability.

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

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

"Electrical line extensions" means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for service lines as defined in this subrule.

"Equivalent overhead transformer cost," as used in this subrule, is that transformer capitalized cost, or fraction thereof, that would be required for similarly situated customers served by a pole-mounted or platform-mounted transformer(s). For each overhead service, it shall be the capitalized cost of the transformer(s) divided by the number of customers served by that transformer(s). For each underground service, it shall be the capitalized cost of an overhead transformer(s) with the same voltage and volt-ampere rating divided by the number of customers served by that transformer(s).

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

"Estimated base revenues," as used in this subrule, shall be calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the board and energy efficiency charges from the estimated annual revenues.

"Estimated construction costs," as used in this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except

equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

"Plant addition," as used in this subrule, means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.

"Point of attachment" is that point of first physical attachment of the utilities' service drop (overhead) or service lateral (underground) conductors to the customer's service entrance conductors. For overhead services it shall be the point of tap or splice to the service entrance conductors. For underground services it shall be the point of tap or splice to the service entrance conductors in a terminal box or meter or other enclosure with adequate space inside or outside the building wall. If there is no terminal box, meter, or other enclosure with adequate space, it shall be the point of entrance into the building.

"Service line," as used in this subrule, means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.

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

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

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

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

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

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

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction

equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

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

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

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

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

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

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

d. Service lines.

(1) The utility shall finance and construct either an overhead or underground service line without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(2) Where the length of the overhead service line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service line on private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service line shall be computed as follows:

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

(3) Where the cost of the underground service line exceeds the estimated cost of constructing an equivalent overhead service line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service line and the estimated cost of constructing an equivalent overhead service line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet without requiring a nonrefundable contribution in aid of construction from the customer if the tariff or rule applies equally to all customers or members.

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

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

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

This rule is intended to implement Iowa Code section 476.8.

[**ARC 7584B**, IAB 2/25/09, effective 4/1/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11]

199—20.4(476) Customer relations.

20.4(1) *Customer information.* Each utility shall:

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

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

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

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

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of electricity for each billing during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

20.4(2) *Customer contact employee qualifications.* Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

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

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

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

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

20.4(3) *Customer deposits.*

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

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

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

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

20.4(4) *Interest on customer deposits.* Interest shall be paid by the rate-regulated utility to each customer required to make a deposit. On or after April 21, 1994, rate-regulated utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

20.4(5) *Customer deposit records.* Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

20.4(6) *Customer's receipt for a deposit.* Each utility shall issue a receipt of deposit to each customer from whom a deposit is received, and shall provide means whereby a depositor may establish claim if the receipt is lost.

20.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and 1 automatic forgiveness of late payment). For refund purposes the account shall be reviewed for prompt payment after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However,

deposits received from customers subject to the exemption provided by 20.4(3)*"b,"* including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

20.4(8) *Unclaimed deposits.* The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.11.

20.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is rendered.

b. The dates on which the meter was read, at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule, or identification of the applicable rate schedule.

e. The account balance brought forward and amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered.

g. A distinct marking to identify an estimated bill.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

j. Customer billing information alternate. A utility serving less than 5000 electric customers may provide the information in 20.4(9) on bill form or otherwise. If the utility elects not to provide the information of 20.4(9), it shall advise the customer, on bill form or by bill insert, that such information can be obtained by contacting the utility's local office.

20.4(10) Rescinded, effective 7/1/81.

20.4(11) *Payment agreements.*

a. *Availability of a first payment agreement.* When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

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

c. *Terms of payment agreements.*

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

1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with

these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.

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

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

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

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

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

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

20.4(12) *Bill payment terms.* The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the rendering of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date of rendering. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is rendered.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month, shall be changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

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

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

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

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 20.4(12)*"e"*(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

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

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

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

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

20.4(13) *Customer records.* The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than three years. Records for customer shall show where applicable:

a. kWh meter reading

b. kWh consumption
c. kW meter reading
d. kW measured demand
e. kW billing demand
f. Total amount of bill.

20.4(14) *Adjustment of bills.*

a. *Meter error.* Whenever a meter creeps or whenever a metering installation is found upon any test to have an average error of more than 2.0 percent for watthour metering; or a demand metering error of more than 1.5 percent in addition to the errors allowed under accuracy of demand metering; an adjustment of bills for service for the period of inaccuracy shall be made in the case of overregistration and may be made in the case of underregistration. The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watthour metering installations the average accuracy shall be the arithmetic average of the percent registration at 10 percent of rated test current and at 100 percent of rated test current giving the 100 percent of rated test current registration a weight of four and the 10 percent of rated test current registration a weight of one.

b. *Determination of adjustment.* Recalculation of bills shall be on the basis of actual monthly consumption except that if service has been measured by self-contained single-phase meters or three-wire network meters and involves no billing other than for kilowatt-hours, the recalculation of bills may be based on the average monthly consumption determined from the most recent 36 months, consumption data.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data. The customer must be advised of the failure and of the basis for the estimate of quantity billed. The periods of error shall be used as defined in immediately following subparagraphs (1) and (2).

(1) Overregistration. If the date when overregistration began can be determined, such date shall be the starting point for determination of the amount of the adjustment. If the date when overregistration began cannot be determined, it shall be assumed that the error has existed for the shortest time period calculated as one-half the time since the meter was installed, or one-half the time elapsed since the last meter test unless otherwise ordered by the board.

The overregistration due to creep shall be calculated by timing the rate of creeping and assuming that the creeping affected the registration of the meter for 25 percent of the time since the more recent of either metering installation or last previous test.

(2) Underregistration. If the date when underregistration began can be determined, it shall be the starting point for determination of the amount of the adjustment except that billing adjustment shall be limited to the preceding six months. If the date when underregistration began cannot be determined, it shall be assumed that the error has existed for one-half of the time elapsed since the more recent of either meter installation or the last meter test, except that billing adjustment shall be limited to the preceding six months unless otherwise ordered by the board.

The underregistration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration for 25 percent of the time since the more recent of either metering installation or last previous test, except that billing adjustment shall be limited to the preceding six months.

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

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

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

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

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

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

g. *Credits and explanations.* Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

20.4(15) *Refusal or disconnection of service.* A utility shall refuse service or disconnect service to a customer, as defined in subrule 20.1(3), in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15)*"b."* The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is rendered. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

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

b. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner which adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

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

(1) For violation of or noncompliance with the utility's rules on file with the board.

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

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

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

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

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

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

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

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

a. Pay the bill in full; or

b. Enter into a reasonable payment plan with the utility (see #2 below); or

c. Apply for and become eligible for low-income energy assistance (see #3 below); or

d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

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

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

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

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

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

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

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

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

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

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E.

Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and responsibilities, as set forth in subparagraph 20.4(15)*"d"*(3):

Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify.

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

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the rendering of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

(7) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will be 20 degrees Fahrenheit or colder. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)*"d"*(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)*"d."*

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or

mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15)*"f."*

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program.

(11) Deployment. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption which appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of electric usage which may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance which may be available to the customer.

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

g. The utility shall, prior to November 1, mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and must contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

20.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill rendered in accordance with paragraph 20.4(14)*"d"* (slow meters).

f. Failure to pay a bill rendered in accordance with paragraph 20.4(14)*"f."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service.

h. Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

20.4(17) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

20.4(18) *Estimated demand.* Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operation and use the measured demand for billing.

20.4(19) *Servicing utilization control equipment.* Each utility shall service and maintain any equipment it uses on customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches or other devices which control the customer's service in accordance with the provisions in the utility's rate schedules.

20.4(20) *Customer complaints.* Complaints concerning the charges, practices, facilities or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility shall provide in its filed tariff a concise, fully informative procedure for the resolution of customer complaints.

b. The utility shall take reasonable steps to ensure that customers unable to travel shall not be denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for board resolution of the issues.

20.4(21) *Temporary service.* When the utility renders temporary service to a customer it may require that the customer bear all of the cost of installing and removing the service facilities in excess of any salvage realized.

20.4(22) *Change in type of service.* If a change in the type of service, such as from 25- to 60-cycle or from direct or alternating current, or a change in voltage to a customer's substation, is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

a. Loss of value in electrical power utilization equipment.

b. Cost of changes in wiring, and

c. Cost of removing old and installing new utilization equipment.

20.4(23) *Limitation of service.* The utility shall have the option of adopting a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility's tariff and shall contain the following conditions:

a. A service limitation device shall not be activated without the customer's agreement.

b. A service limitation device shall not be activated unless the customer has defaulted on all payment agreements for which the customer qualifies under the board's rules and the customer has agreed to a subsequent payment agreement.

c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited if otherwise eligible, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, "electric heating" shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer, or the service limiter function must reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer. If the remote reset option is used, the meter must still be capable of being reset manually by the customer or the service limiter function must reset itself automatically within 15 minutes after the interruption.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)*"f."*

[**ARC 7976B**, IAB 7/29/09, effective 9/2/09; **ARC 9101B**, IAB 9/22/10, effective 10/27/10; Editorial change: IAC Supplement 12/29/10]

These rules are intended to implement Iowa Code sections 476.6, 476.8, 476.20 and 476.54.

199—20.5(476) Engineering practice.

20.5(1) *Requirement for good engineering practice.* The electric plant of the utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

20.5(2) *Standards incorporated by reference.* The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

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

b. National Electrical Code, ANSI/NFPA 70-2014.

c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.

d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.

e. Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.

f. IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.

g. IEEE Standard 519-2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.

h. At railroad crossings, 199—42.6(476), "Engineering standards for electric and communications lines."

20.5(3) *Adequacy of supply and reliability of service.* The generating capacity of the utility's plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

In appraising adequacy of supply the board will segregate electric utilities into two classes viz., those having high capacity transmission interconnections with other electrical utilities and those which lack such interconnection and are therefore completely dependent upon the firm generating capacity of the utility's own generating facilities.

a. In the case of utilities having interconnecting ties with other utilities, the board will, upon appraising adequacy of supply, take appropriate notice of the utility's recent past record, as of the

date of appraisal, of any widespread service interruptions and any capacity shortages along with the consideration of the supply regularly available from other sources, the normal demands, and the required reserve for emergencies.

b. In the case of noninterconnected utilities the board will give attention to the maximum total coincident customer demand which could be satisfied without the use of the single element of plant equipment, the disability of which would produce the greatest reduction in total net plant productive capacity and also give attention to the normal demands for service and to the reasonable reserve for emergencies.

20.5(4) *Electric transmission and distribution facilities.* Rescinded IAB 11/13/02, effective 12/18/02.

20.5(5) *Inspection of electric plant.* Each utility shall adopt a written program for inspection of its electric plant in order to determine the necessity for replacement and repair in compliance with board rule 199—25.3(476,478).

This rule is intended to implement Iowa Code section 476.8 and 478.18.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—20.6(476) Metering.

20.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The publications listed in 20.6(3) are representative of accepted good practice. Each utility shall maintain inspecting and testing records for each meter and associated device until three years after its retirement.

20.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before being placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments or repairs. This may be accomplished by periodic tests at specified intervals or on the basis of a statistical sampling plan, but shall include meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. The limits of meter accuracy considered acceptable by the utility.

f. The nature of meter and meter test records which will be maintained by the utility.

20.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard Code for Electricity Metering, ANSI C12.1-2008.

b. and *c.* Rescinded IAB 5/23/07, effective 6/27/07.

20.6(4) *Meter adjustment.* All meters and associated metering devices shall, when tested, be adjusted as closely as practicable to the condition of zero error.

20.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing that customer. A test need not be made more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

20.6(6) *Referee tests.* Upon written request by a customer or utility, the board will conduct a referee test of a meter. A test need not be made more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit in the form of a check or money order made payable to the utility.

Within five days of receipt of the written request and payment, the board shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time and place of the test with the board and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments shall be made as required in 20.4(14). The board shall issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

20.6(7) *Condition of meter.* No meter that is known to be mechanically or electrically defective, or to have incorrect constants, or that has not been tested and adjusted if necessary in accordance with these rules shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the electricity requirements of the customer.

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09]

199—20.7(476) Standards of quality of service.

20.7(1) Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customer's clocks connected to the system.

20.7(2) Voltage limits retail. Each utility supplying electric service to ultimate customers shall provide service voltages in conformance with the standard at 20.5(2)*"d."*

20.7(3) Voltage balance. Where three-phase service is provided the utility shall exercise reasonable care to assure that the phase voltages are in balance. In no case shall the ratio of maximum voltage deviation from average to average voltage exceed .02.

20.7(4) Voltage limits, service for resale. The nominal voltage shall be as mutually agreed upon by the parties concerned. The allowable variation shall not exceed 7.5 percent above or below the agreed-upon nominal voltage without the express approval of the board.

20.7(5) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:

a. Arise from the action of the elements.

b. Are infrequent fluctuations not exceeding five minutes, duration.

c. Arise from service interruptions.

d. Arise from temporary separation of parts of the system from the main system.

e. Are from causes beyond the control of the utility.

f. Do not exceed 10 percent above or below the standard nominal voltage, and service is at a distribution line or transmission line voltage with the retail customer providing voltage regulators.

20.7(6) Voltage surveys and records. Voltage measurements shall be made at the customer's entrance terminals. For single-phase service the measurement shall be made between the grounded conductor and the ungrounded conductors. For three-phase service the measurement shall be made between the phase wires.

20.7(7) Each utility shall make a sufficient number of voltage measurements, using recording voltmeters, in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), 20.7(4). All voltmeter records obtained under 20.7(7) shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

a. The location where the voltage was taken.

b. The time and date of the test.

c. The results of the comparison with a working standard indicating voltmeter.

20.7(8) Equipment for voltage measurements.

a. *Secondary standard indicating voltmeter.* Each utility shall have available at least one indicating voltmeter maintained with error no greater than 0.25 percent of full scale.

b. *Working standard indicating voltmeters.* Each utility shall have at least two indicating voltmeters maintained so as to have as-left errors of no greater than 1 percent of full scale.

c. Recording voltmeters. Each utility must have readily available at least two portable recording voltmeters with a rated accuracy of 1 percent of full scale.

20.7(9) Rescinded IAB 12/11/91, effective 1/15/92.

20.7(10) Extreme care must be exercised in the handling of standards and instruments to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

20.7(11) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers, and interruptions planned for longer than one hour shall be preceded by adequate notice to those who will be affected.

20.7(12) Power quality monitoring. Each utility shall investigate power quality complaints from its customers and determine if the cause of the problem is on the utility's systems. In addressing these problems, each utility shall implement to the extent reasonably practical the practices outlined in the standard given at 20.5(2)*"f."*

20.7(13) Harmonics. A harmonic is a sinusoidal component of the 60 cycles per second fundamental wave having a frequency that is an integral multiple of the fundamental frequency. When excessive harmonics problems arise, each electric utility shall investigate and take actions to rectify the problem. In addressing harmonics problems, the utility and the customer shall implement to the extent practicable and in conformance with prudent operation the practices outlined in the standard at 20.5(2)*"g."*

This rule is intended to implement Iowa Code sections 476.2 and 476.8.

199—20.8(476) Safety.

20.8(1) *Protective measures.* Each utility shall exercise reasonable care to reduce those hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

20.8(2) *Accident investigation and prevention.* The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

20.8(3) *Reportable accidents.* Each utility shall maintain a summary of all reportable accidents, as defined in 199—25.5(476,478), arising from its operations.

20.8(4) *Grounding of secondary distribution system.* Unless otherwise specified by the board, each utility shall comply with, and shall encourage its customers to comply with, the applicable provisions of the acceptable standards listed in 20.5(2) for the grounding of secondary circuits and equipment.

Ground connections should be tested for resistance at the time of installation. The utility shall keep a record of all ground resistance measurements.

The utility shall establish a program of inspection so that all artificial grounds installed by it shall be inspected within reasonable periods of time.

199—20.9(476) Electric energy sliding scale or automatic adjustment. A rate-regulated utility's sliding scale or automatic adjustment of the unit charge for electric energy shall be an energy clause.

20.9(1) *Applicability.* A rate-regulated utility's sliding scale or automatic adjustment of electric utility energy rates shall recover from consumers only those costs which:

Are incurred in supplying energy;

Are beyond direct control of management;

Are subject to sudden important change in level;

Are an important factor in determining the total cost to serve; and

Are readily, precisely, and continuously segregated in the accounts of the utility.

20.9(2) *Energy clause for rate-regulated utility.* Prior to each billing cycle, a rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine

the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment shall provide for change of the price per kilowatt hour consumed under rates set by the board based upon the formulas provided below. The calculation shall be:

$$E_0 = \frac{EC_0 + EC_1}{EQ_0 + EQ_1} + \frac{A_1}{EJ_0 + EJ_1} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

EC_0 is the estimated expense for energy in the month during which E_0 will be used.

EC_1 is the estimated expense for energy in the month prior to the month of EC_0.

EQ_0 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered into account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which E_0 will be used.

EQ_1 is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447 and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to EQ_0.

EJ_0 is the estimated electric energy to be consumed under rates set by the board in the month during which the energy adjustment charge (E_0) will be used in bill calculations.

EJ_1 is the estimated electric energy to be consumed under rates set by the board in the month prior to the month of EJ_0.

A_1 is the beginning of the month energy cost adjustment account balance for the month of estimated consumption EJ_1. This would be the most recent month's balance available from actual accounting data.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. The estimated energy cost ($EC_0 + EC_1$) shall be the estimated cost associated with EQ_0 and EQ_1 determined as the cost of:

(1) Fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants. Fossil fuel shall include natural gas used for electric generation and the cost of fossil fuel transferred from account 151 to account 501 or 547 of the Uniform System of Accounts for Electric Utilities. Nuclear fuel shall be that shown in account 518 of the Uniform System of Accounts except that if account 518 contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from the account. (Paragraph C of account 518 includes the cost of other fuels used for ancillary steam facilities.)

(2) The cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating agreement, for use in prime movers producing electric energy (accounts 503 and 521).

(3) A deduction shall be made of the expenses of producing steam chargeable to others, to other utility departments under a joint operating agreement, or to other electric accounts outside the steam generation group of accounts (accounts 504 and 522).

(4) The cost of water used for hydraulic power generation. Water cost shall be limited to items of account 536 of the Uniform System of Accounts. For pumped storage projects the energy cost of pumping is included. Pumping energy cost shall be determined from the applicable costs of subparagraphs of paragraph 20.9(2)*"b."*

(5) The energy costs paid for energy purchased under arrangements or contracts for firm power, operational control energy, outage energy, participation power, peaking power, and economy energy, as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

(6) Purchases from AEP facilities under rule 199—15.11(476).

(7) The weighted average costs of inventoried allowances used in generating electricity.

(8) The gains and losses, as described in subrule 20.17(9), from allowance transactions occurring during the month. Allowance transactions shall include vintage trades and emission for emission trades.

(9) Eligible costs or credits associated with the utility's annual reconciliation of its alternate energy purchase program under 199—paragraph 15.17(4)*"b."*

c. The energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board. Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the actual expense for energy, calculated as set forth in 20.9(2)*"b,"* in the month prior to EJ_1 of 20.9(2)*"a."*

J_2 is the actual energy consumed in the prior month under rates set by the board and recorded in accounts 440, 442 and 444-6 of the Uniform System of Accounts.

Q_2 is the actual total energy consumed or delivered in the prior month and recorded in accounts 440, 442, 444-7, excluding energy from distinct interchange deliveries entered in account 447, and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. Reserve account for nuclear generation. A rate-regulated utility owning nuclear generation or purchasing energy under a participation power agreement on nuclear generation may establish a reserve account. The reserve account will spread the higher cost of energy used to replace that normally received from nuclear sources. A surcharge would be added to each kilowatt hour from the nuclear source. The surcharges collected are credited to the reserve account. During an outage or reduced level of operation, replacement energy cost would be offset through debit to the reserve account. The debit would be based upon the cost differential between replacement energy cost and the average cost (including the surcharge) of energy from the nuclear capacity. A reserve account shall have credit and debit limitations equal in dollar amounts to the total cost differential for replacement energy during a normal refueling outage.

e. A rate-regulated utility desiring to collect expensed allowance costs and the gains and losses from allowance transactions through the energy adjustment must file with the board monthly reports including:

(1) The number and weighted average unit cost of allowances used during the month to offset emissions from the utility's affected units;

(2) The number and unit price of allowances purchased during the month;

(3) The number and unit price of allowances sold during the month;

(4) The weighted average unit cost of allowances remaining in inventory;

(5) The dollar amount of any gain from an allowance sale occurring during the month;

(6) The dollar amount of any loss from an allowance sale occurring during the month; and

(7) Documentation of any gain or loss from an allowance sale occurring during the month.

f. A rate-regulated utility which proposes a new sliding scale or automatic adjustment clause of electric utility energy rates shall conform such clause with the rules.

20.9(3) *Optional energy clause for a rate-regulated utility which does not own generation.* A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle it shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.

The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items identified as other costs should be described and their inclusion as fuel costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. The energy adjustment charge shall provide for change of the price per kilowatt-hour consumed to equal the average cost per kilowatt hour delivered by the utility's system. The calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

b. A utility purchasing its total electric energy requirements may establish an energy cost adjustment account for which the cumulative balance is the excess or deficiency arising from the difference between commission-recognized energy cost recovery and the amount recovered through application of energy charges on jurisdictional consumption.

For a utility electing to use an energy cost adjustment account the calculation shall be:

$$E_0 = \frac{C_2 + C_3 + C_4}{Q_2 + Q_3 + Q_4} + \frac{A_2}{J_2 + J_3 + J_4} - B$$

E_0 is the energy adjustment charge to be used in the next customer billing cycle rounded on a consistent basis to either the nearest 0.01¢/kWh or 0.001¢/kWh. For deliveries at voltages higher than secondary line voltages, appropriate factors should be applied to the adjustment charge to recognize the lower losses associated with these deliveries.

C_2, C_3 and C_4 are the charges by the wholesale suppliers as recorded in account 555 offset by energy revenues from distinct interchange deliveries entered in account 447 of the Uniform System of Accounts for the first three of the four months prior to the month in which E_0 will be used.

Q_2, Q_3 and Q_4 are the total electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 during each of the months in which the expenses C_2, C_3 and C_4 were incurred.

A_2 is the end of the month energy cost adjustment account balance for the month of consumption J_2. This would be the most recent month's balance available from actual accounting data.

J_2, J_3 and J_4 are electric energy consumed under rates set by the board in the months corresponding to C_2, C_3 and C_4.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

c. The end of the month energy cost adjustment account balance (A) shall be the cumulative balance of any excess or deficiency which arises out of the difference between board recognized energy cost recovery and the amount recovered through application of energy charges to consumption under rates set by the board.

Each monthly entry (D) into the energy cost adjustment account shall be the dollar amount determined from solution of the following equation (with proper adjustment for those deliveries at high voltage which for billing purposes recognized the lower losses associated with the high voltage deliveries).

$$D = \left[C_2 \times \frac{J_2}{Q_2} \right] - \left[J_2 \times (E_2 + B) \right]$$

C_2 is the prior month charges by the wholesale suppliers as recorded in account 555 of the Uniform System of Accounts offset by energy revenues from distinct interchange deliveries entered in account 447.

J_2 is the electric energy consumed under jurisdictional rates in the prior month.

Q_2 is the electric energy delivered by the utility system, excluding energy from distinct interchange deliveries entered in account 447 in the prior month.

E_2 is the energy adjustment charge used for billing in the prior month.

B is the amount of the electric energy cost included in the base rates of a utility's rate schedules.

d. A utility with special conditions may petition the board for a waiver which would recognize its unique circumstances.

e. A utility which does not own generation and proposes a new sliding scale or automatic adjustment clause of electric utility rates shall conform such clause with the rules.

20.9(4) *Annual review of energy clause.* On or before each May 1, the board will notify each utility as to the two months of the previous calendar year for which fuel, freight, and transportation invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

This rule is intended to implement Iowa Code section 476.6(11).

199—20.10(476) Ratemaking standards.

20.10(1) *Coverage.* Standards for ratemaking shall apply to all rate-regulated utilities in the state of Iowa. The board may, by rule or by order in specific cases, exempt a utility or class of utilities from any or all ratemaking standards. The standards are recommended to all service-regulated utilities in this jurisdiction.

20.10(2) *Cost of service.* Rates charged by an electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reasonably reflect the costs of providing electric service to the class. The methods used to determine class costs of service shall to the maximum extent practical permit identification of differences in cost-incurrence, for each class of electric consumers, attributable to daily and seasonal time of use of service, and permit identification of differences in cost-incurrence attributable to differences in demand, energy, and customer components of cost.

The design of rates should reasonably approximate a pricing methodology for any individual utility that would reflect the price system that would exist in a competitive market environment. For purposes

of determining revenue requirements among customer classes, embedded costs shall be preferred. For purposes of determining rate designs within customer classes, long-run marginal cost approaches are preferred although embedded cost approaches may be considered reasonable.

Nothing in this rule shall authorize or require the recovery by an electric utility of revenues in excess of, or less than, the amount of revenues otherwise determined to be lawful by the board.

Guidelines for use in evaluating the acceptability of methods of class cost of service estimation include, but are not limited to, the following:

a. All usage of customer, demand, and energy components of service shall be considered new usage.

b. Customer classes shall be established on the primary basis of reasonably similar usage patterns within classes, even if this requires disaggregation or recombination of traditional customer classes.

c. Generating capacity estimates or allocations among and within classes shall recognize that utility systems are designed to serve both peak and off-peak demand, and shall attribute costs based upon both peak period demand and the contribution of off-peak period demand in determining generation mix. Generating capacity estimates and allocations among and within classes shall be based on load data for each class as described in 199—subrule 35.9(2).

d. Transmission and distribution capacity estimates or allocations among and within classes shall be demand-related based upon system usage patterns, and the load imposed by a class on the transmission or distribution capacity in question.

e. Customer cost component estimates or allocations shall include only costs of the distribution system from and including transformers, meters and associated customer service expenses.

f. Methods of cost estimates or allocations among customer classes shall recognize the differences in voltage levels and other service characteristics, and line losses among customer classes.

g. Methods of class cost of service determination which are consistent with zero customer, demand, or energy component costs or major categories of these, such as generation, transmission or distribution, shall be considered unacceptable methods.

h. Long-run marginal cost methods of class cost of service determination shall clearly reflect changes in total costs to the utility with respect to changes in the outputs of customer, demand, or energy components of electric services.

i. The use of an inverse elasticity approach to adjust long-run marginal cost-based rates to the revenue requirement shall be unacceptable. Other approaches will be considered on a case-by-case basis.

20.10(3) *Declining block rates.* The energy-related cost component of a rate, or the amount attributable to the energy-related cost component of a rate, charged by an electric utility for providing electric service during any period to any class of electric consumers, shall not decrease as kilowatt-hour consumption by such class increases during the period except to the extent that the utility demonstrates that the energy costs of providing electric service to such class decrease as consumption increases during the period.

20.10(4) *Time-of-day rates.* The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the cost of providing electric service to that class of electric consumers at different times of the day unless such rates are not cost-effective with respect to the class. These rates are cost-effective with respect to a class if the long-run benefits of the rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of the rates. Cost-based time-of-day rates shall be offered on an optional basis to electric consumers who do not otherwise qualify for the rates if consumers agree to pay the additional metering costs and other costs associated with the use of the rates.

20.10(5) *Seasonal rates.* The rates charged by an electric utility for providing electric service to each class of electric consumers may be on a seasonal basis which reflects the costs of providing service to the class of consumers at different seasons of the year to the extent that costs vary seasonally for the utility, if the board determines that seasonal rates are appropriate in an individual case.

20.10(6) *Interruptible rates.* Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which the consumer is a member.

20.10(7) *Load management techniques.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(8) *Other energy conservation strategies.* Rescinded IAB 11/12/03, effective 12/17/03.

20.10(9) *Pilot projects.* Rescinded IAB 11/12/03, effective 12/17/03.

199—20.11(476) Customer notification of peaks in electric energy demand. Each electric utility shall inform its customers of the significance of reductions in consumption of electricity during hours of peak demand.

20.11(1) *Annual notice.* Each electric utility shall provide its customers, on an annual basis, with a written notice that informs customers of the significance of reductions in consumption of electricity during periods of peak demand and the potential benefits of energy efficiency. The notice shall include an explanation of the condition(s) under which peak alerts will be issued and the means by which the utility will inform customers that a peak alert is being issued. The notice shall provide ways a customer can access additional information on the utility's energy efficiency programs. The notice shall be delivered to customers prior to the start of the utility's historical seasonal peak demand.

20.11(2) *Notification plan.* Each investor-owned utility shall have on file with the board a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur. The plan shall include, at a minimum, the following:

a. A description and explanation of the condition(s) that will prompt a peak alert.

b. A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

c. The text of the message or messages to be given in the general notice to customers. The message shall include the name of the utility providing the notice, an explanation that conditions exist which indicate a peak in electric demand is approaching, and an explanation of the significance of reductions in electricity use during a period of peak demand and the potential benefits of energy efficiency.

20.11(3) *Implementation of notification plan.* The utility shall implement its notification plan as needed to alleviate the conditions described in 20.11(2)*"a."*

20.11(4) *Permissive notices.* The standard for implementing peak alert notification is a minimum standard and does not prohibit a utility from issuing a notice requesting customers to reduce usage at any other time.

20.11(5) *Annual report.* Each electric utility required by subrule 20.11(2) to file a plan for customer notification shall file, on or before April 1 of each year, a report for the prior year providing the text of the annual written notice and of the peak alert notices given its customers, the dates when the notices were issued, and the costs of providing the annual written notice and the peak alert notices to customers. The annual report shall also include a statement of any problems experienced by the utility in providing customer notification of a peak demand and modifications of the plan, if necessary, to make customer notification more effective.

[**ARC 1953C**, IAB 4/15/15, effective 5/20/15]

199—20.12(476) New structure energy conservation standards. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.13(476) Periodic electric energy supply and cost review [476.6(16)].

20.13(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's electric fuel procurement and contracting practices. By January 31 each year the board will notify a rate-regulated utility if the utility will be required to file an electric fuel procurement plan. In the years in which it does not conduct a contested case proceeding, the board may require a utility to file certain information for the board's review. In years in which a full proceeding is conducted, a rate-regulated utility providing

electric service in Iowa shall prepare and file with the board on or before May 15 of each required filing year a complete electric fuel procurement plan for an annual period commencing June 1 or, in the alternative, for the annual period used by the utility in preparing its own fuel procurement plan. A utility's procurement plan shall be organized to include information as follows:

a. Index. The plan shall include an index of all documents and information required to be filed in the plan, and the identification of the board files in which the documents incorporated by reference are located.

b. Purchase contracts and arrangements. A utility's procurement plan shall include detailed summaries of the following types of contracts and agreements executed since the last procurement review:

(1) All contracts and fuel supply arrangements for obtaining fuel for use by any unit in generation;

(2) All contracts and arrangements for transporting fuel from point of production to the site where placed in inventory, including any unit generating electricity for the utility;

(3) All contracts and arrangements for purchasing or selling allowances;

(4) Purchased power contracts or arrangements, including sale-of-capacity contracts, involving over 25 MW of capacity;

(5) Pool interchange agreements;

(6) Multiutility transmission line interchange agreements; and

(7) Interchange agreements between investor-owned utilities, generation and transmission cooperatives, or both, not required to be filed above, which were entered into or in effect since the last filing, and all such contracts or arrangements which will be entered into or exercised by the utility during the prospective 12-month period.

All procurement plans filed by a utility shall include all of the types of contracts and arrangements listed in subparagraphs (1) and (2) of this paragraph which will be entered into or exercised by the utility during the prospective 12-month period. In addition, the utility shall file an updated list of contracts that are or will become subject to renegotiation, extension, or termination within five years. The utility shall also update any price adjustment affecting any of the filed contracts or arrangements.

c. Other contract offers. The procurement plan shall include a list and description of those types of contracts and arrangements listed in paragraph 20.13(1)*"b"* offered to the utility since the last filing into which the utility did not enter. In addition, the procurement plan shall include a list of those types of contracts and arrangements listed in paragraph 20.13(1)*"b"* which were offered to the utility for the prospective 12-month period and into which the utility did not enter.

d. Studies or investigation reports. The procurement plans shall include all studies or investigation reports which have been considered by the utility in deciding whether to enter into any of those types of contracts or arrangements listed in paragraphs 20.13(1)*"b"* and *"c"* which will be exercised or entered into during the prospective 12-month period.

e. Price hedge justification. The procurement plan shall justify purchasing allowance futures contracts as a hedge against future price changes in the market rather than for speculation.

f. Actual and projected costs. The procurement plan shall include an accounting of the actual costs incurred in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1)*"b"* for the previous 12-month period.

The procurement plan also shall include an accounting of all costs projected to be incurred by the utility in the purchase and transportation of fuel and the purchase of allowances for use in generating electricity associated with each contract or arrangement filed in accordance with paragraph 20.13(1)*"b"* in the prospective 12-month period.

If applicable, the reporting of transportation costs in the procurement plan shall include all known liabilities, including all unit train costs.

g. Costs directly related to the purchase of fuel. The utility shall provide a list and description of all other costs directly related to the purchase of fuels for use in generating electricity not required to be reported by paragraph *"f."*

h. *Compliance plans.* Each utility shall file its emissions compliance plan as submitted to the EPA. Revisions to the compliance plan shall be filed with each subsequent procurement plan.

i. *Evidence submitted.* Each utility shall submit all factual evidence and written argument in support of its evaluation of the reasonableness and prudence of the utility's procurement practice decisions in the manner described in its procurement plan. The utility shall file data sufficient to forecast fuel consumption at each generating unit or power plant for the prospective 12-month period. The board may require the submission of machine-readable data for selected computer codes or models.

j. *Additional information.* Each utility shall file additional information as ordered by the board.

20.13(2) *Periodic review proceeding.* The board shall periodically conduct a proceeding to evaluate the reasonableness and prudence of a rate-regulated utility's procurement practices. The prudence review of allowance transactions and accompanying compliance plans shall be determined on information available at the time the options or plans were developed.

a. On or before May 15 of a required filing year, each utility shall file prepared direct testimony and exhibits in support of its fuel procurement decisions and its fuel requirement forecast. This filing shall be in conjunction with the filing of the plans. The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased fuel costs.

b. The board shall disallow any purchased fuel costs in excess of costs incurred under responsible and prudent policies and practices.

199—20.14(476) Flexible rates.

20.14(1) *Purpose.* This subrule is intended to allow electric utility companies to offer, at their option, incentive or discount rates to their customers.

20.14(2) *General criteria.*

a. Electric utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

20.14(3) *Tariff requirements.* If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount rate shall be equal the energy costs and customer costs of serving the specific customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

20.14(4) *Reporting requirements.* Each rate-regulated electric utility electing to offer flexible rates shall file annual reports with the board within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months. For all discounts initiated in the last 12 months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The end-use cost of alternate fuels or energy supplies available to the customer, if relevant;

(5) The energy and demand components by month of the amount of electricity sold to the customer in the preceding 12 months.

b. Section 2 of the report relates to overall program evaluation. Amount of electricity refers to both energy and demand components when the customer is billed for both elements. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer at discounted rates, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month; and

(5) The dollar value of sales to each customer for each of the previous 12 months.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The amount of electricity sold in the last 12 months to each customer, by month;

(3) The amount of electricity sold to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of sales to each customer for each of the past 12 months.

d. No monthly report is required if the utility had no customers receiving a discount during the relevant period and had no customers which were evaluated for the discount and rejected during the relevant period.

20.14(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—20.15(476) Customer contribution fund.

20.15(1) *Applicability and purpose.* This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. Each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

20.15(2) *Program plan.* Each utility shall have on file with the board a detailed description of its current program plan. At a minimum, the plan shall include the following information:

a. A list of the members of the governing board, council, or committee established to determine the appropriate distribution of the funds collected. The list shall include the organization each member represents;

b. A sample of the customer notification with a description of the method and frequency of its distribution;

c. A sample of the authorization form provided to customers;

d. The date of implementation.

Program plans for new customer contribution funds shall be rejected if not in compliance with this rule.

20.15(3) *Notification.* Each utility shall notify all customers of the fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6000 customers may publish their semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum the notice shall include:

a. A description of the availability and the purpose of the fund;

b. A customer authorization form. This form shall include a monthly billing option and any other methods of contribution.

20.15(4) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. Each utility may allow persons or organizations to contribute matching funds.

20.15(5) *Annual report.* On or before September 30 of each year, each utility shall file with the board a report of all the customer contribution fund activity for the previous fiscal year beginning July 1 and ending June 30. The report shall be in a form provided by the board and shall contain an accounting of the total revenues collected and all distributions of the fund. The utility shall report all utility expenses directly related to the customer contribution fund.

20.15(6) *Binding effect.* A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledgor. The pledge amount shall not be subject to delayed payment charges by the utility.

199—20.16(476) Exterior flood lighting. Rescinded IAB 11/12/03, effective 12/17/03.

199—20.17(476) Ratemaking treatment of emission allowances.

20.17(1) *Applicability and purpose.* This rule applies to all rate-regulated utilities providing electric service in Iowa. Under Title IV of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

20.17(2) *Definitions.* The following words and terms, when used in this rule, shall have the meaning indicated below:

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

"Allowance option contract" is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

"Auction allowances" are allowances acquired or sold through EPA's annual allowance auction.

"Boot" means something acquired or forfeited to equalize a trade.

"Direct sale allowances" are allowances purchased from the EPA in its annual direct sale.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_x emission allowances.

"Fair market value" is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

"Historical cost" is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

"Original cost" is the historical cost of an asset to the person first devoting the asset to public service.

"Statutory allowances" are allowances allocated by the EPA at no cost to affected units under the Acid Rain Program either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

20.17(3) *Valuing allowances for ratemaking purposes.*

a. Statutory allowances. Valued at zero cost to electric utility.

b. Direct sale allowances. Valued at historical cost.

c. Auction allowances. Valued at historical cost.

d. Purchased allowances. Valued at historical cost.

20.17(4) *Valuing allowance inventory accounts.* Allowance inventory accounts shall be valued at the weighted average cost of all allowances eligible for use during that year.

20.17(5) *Valuing allowances acquired as part of a package.* Allowances acquired as part of a package with equipment, fuel, or electricity shall be valued at their fair market value at the time the allowances were acquired.

20.17(6) *Valuing allowances acquired through exchanges.*

a. *Exchanges without boot.* Electric utilities shall value allowances received in exchanges based on the recorded inventory value of the allowances relinquished.

b. *Exchanges with boot.* Electric utilities shall value allowances as the sum of the inventory cost of the allowances given up and the monetary consideration paid in boot for the newly acquired allowances. In determining the historical cost of allowances received, a gain (or loss) shall be recorded to the extent that the amount of boot received exceeds a proportionate share of the recorded weighted average inventory cost of the allowance surrendered. The proportionate share shall be based upon the ratio of the monetary consideration received (i.e., boot) to the total consideration received (monetary consideration plus the fair market value of the allowances received). The historical cost of the allowances received shall be equal to the amount derived by subtracting the difference between the boot received and the gain from the old inventory cost.

20.17(7) *Valuing allowances transferred among affiliates.*

a. Allowances transferred from a utility to a parent or unregulated subsidiary. Allowances shall be transferred at the higher of historical cost or fair market value.

b. Allowances transferred from an unregulated subsidiary or parent to a utility. Allowances shall be transferred at the lesser of original cost or fair market value.

c. Allowances transferred from a utility to an affiliated utility. Allowances shall be transferred at fair market value.

20.17(8) *Expense recognition and recovery of allowance costs.*

a. *Expense recognition.* Electric utilities shall charge allowances (including fractional amounts) to expense in the month in which related emissions occur.

b. *Expense recovery.* The expense associated with allowances used for compliance shall be passed through the energy adjustment as specified in rule 199—20.9(476). The expense associated with allowances used for compliance shall include expenses associated with vintage trades and emission for emission trades.

c. *Allowance inventory shortage.* If a utility emits more emissions in a month than it has allowances in inventory, the utility shall pass the estimated cost of acquiring the needed allowances through the energy adjustment. When the needed allowances are acquired, any difference between the estimated and actual cost of the allowances shall be passed through the energy adjustment as specified in rule 199—20.9(476).

20.17(9) *Gains/losses from allowance transactions.* The gains and losses, including net gains and losses, from allowance transactions shall be passed through the energy adjustment as specified in rule 199—20.9(476). Allowance transactions shall include vintage trades and emission for emission trades.

20.17(10) *Allowance futures or option contracts.*

a. *Price hedging.* Electric utilities shall defer the costs or benefits from hedging transactions and include such amounts in inventory values when the related allowances are acquired, sold, or otherwise disposed of. Where the costs or benefits of hedging transactions are not identifiable with specific allowances, the amounts shall be included in inventory values when the futures contract is closed.

b. *Speculation.* Allowance transactions entered into for the purpose of speculation shall not affect allowance inventory pricing.

20.17(11) *Working capital reserve of allowances.* A working capital reserve of allowances shall be established in each utility's rate case proceeding based on the probability of forced outages, fuel quality

variability, variability in load growth, nuclear exposure, the price and availability of allowances on the national market, and any other factors that the board deems appropriate. The working capital reserve will earn at the utility's authorized rate of return.

20.17(12) *Allowances banked for future use.* Allowances banked for future use shall be considered plant held for future use in utility rate proceedings if a definitive plan and schedule for use of the allowances is deemed adequate by the board.

20.17(13) *Prudence of allowance transactions.* The prudence of allowance transactions shall be determined by the board in the periodic electric energy supply and cost review. The prudency review of allowance transactions and accompanying compliance plans shall be based on information available at the time the options or plans were developed. Costs recovered from ratepayers through the energy adjustment that are deemed imprudent by the board shall be refunded with interest to ratepayers through the energy adjustment as specified in rule 199—20.9(476).

199—20.18(476,478) Service reliability requirements for electric utilities.

20.18(1) *Applicability.* Rule 199—20.18(476,478) is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

20.18(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of rule 199—20.18(476,478) is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

20.18(3) *General obligations.*

a. Each electric utility shall make reasonable efforts to avoid and prevent interruptions of service. However, when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

b. The electric utility's electrical transmission and distribution facilities shall be designed, constructed, maintained, and electrically reinforced and supplemented as required to reliably perform the power delivery burden placed upon them in the storm and traffic hazard environment in which they are located.

c. Each electric utility shall carry on an effective preventive maintenance program and shall be capable of emergency repair work on a scale which its storm and traffic damage record indicates as appropriate to its scope of operations and to the physical condition of its transmission and distribution facilities.

d. In appraising the reliability of the electric utility's transmission and distribution system, the board will consider the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces, all as demonstrated in actual cases of storm and traffic damage to the facilities.

e. Each electric utility shall keep records of interruptions of service on its primary distribution system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions.

f. Each electric utility shall make reasonable efforts to reduce the risk of future interruptions by taking into account the age, condition, design, and performance of transmission and distribution facilities and providing adequate investment in the maintenance, repair, replacement, and upgrade of facilities and equipment.

g. Any electric utility unable to comply with applicable provisions of rule 199—20.18(476,478) may file a waiver request pursuant to rule 199—1.3(17A,474,476,78GA,HF2206).

20.18(4) *Definitions.* Terms and formulas when used in rule 199—20.18(476,478) are defined as follows:

"Customer" means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

"Customer average interruption duration index (CAIDI)" means the average interruption duration for those customers who experience interruptions during the year. It is calculated by dividing the annual sum of all customer interruption durations by the total number of customer interruptions.

$$\text{CAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customer Interruptions}}$$

"Distribution system" means that part of the electric system owned or operated by an electric utility and designed to operate at a nominal voltage of 25,000 volts or less.

"Electric utility" means investor-owned electric utilities and electric cooperative corporations and associations owning, controlling, operating, or using transmission and distribution facilities and equipment subject to the board's jurisdiction.

"GIS" means a geospatial information system. This is an information management framework that allows the integration of various data and geospatial information.

"Interrupting device" means a device capable of being reclosed whose purpose is to interrupt faults and restore service or disconnect loads. These devices can be manual, automatic, or motor-operated. Examples may include transmission breakers, feeder breakers, line reclosers, motor-operated switches, fuses, or other devices.

"Interruption" means a loss of service to one or more customers or other facilities and is the result of one or more component outages. The types of interruption include momentary event, sustained, and scheduled. The following interruption causes shall not be included in the calculation of the reliability indices:

1. Interruptions intentionally initiated pursuant to the provisions of an interruptible service tariff or contract and affecting only those customers taking electric service under such tariff or contract;
2. Interruptions due to nonpayment of a bill;
3. Interruptions due to tampering with service equipment;
4. Interruptions due to denied access to service equipment located on the affected customer's private property;
5. Interruptions due to hazardous conditions located on the affected customer's private property;
6. Interruptions due to a request by the affected customer;
7. Interruptions due to a request by a law enforcement agency, fire department, other governmental agency responsible for public welfare, or any agency or authority responsible for bulk power system security;
8. Interruptions caused by the failure of a customer's equipment; the operation of a customer's equipment in a manner inconsistent with law, an approved tariff, rule, regulation, or an agreement between the customer and the electric utility; or the failure of a customer to take a required action that would have avoided the interruption, such as failing to notify the company of an increase in load when required to do so by a tariff or contract.

"Interruption duration" as used herein in regard to sustained outages means a period of time measured in one-minute increments that starts when an electric utility is notified or becomes aware of an interruption and ends when an electric utility restores electric service. Durations of less than five minutes shall not be reported in sustained outages.

"Interruption, momentary" means single operation of an interrupting device that results in a voltage of zero. For example, two breaker or recloser operations equals two momentary interruptions. A momentary interruption is one in which power is restored automatically.

"Interruption, momentary event" means an interruption of electric service to one or more customers of duration limited to the period required to restore service by an interrupting device. Note: Such switching operations must be completed in a specified time not to exceed five minutes. This definition includes all reclosing operations that occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds, the event shall be considered one momentary event interruption.

"Interruption, scheduled" means an interruption of electric power that results when a transmission or distribution component is deliberately taken out of service at a selected time, usually for the purposes of construction, preventive maintenance, or repair. If it is possible to defer the interruption, the interruption is considered a scheduled interruption.

"Interruption, sustained" means any interruption not classified as a momentary event interruption. It is an interruption of electric service that is not automatically or instantaneously restored, with duration of greater than five minutes.

"Loss of service" means the loss of electrical power, a complete loss of voltage, to one or more customers. This does not include any of the power quality issues such as sags, swells, impulses, or harmonics. Also see definition of "interruption."

"Major event" will be declared whenever extensive physical damage to transmission and distribution facilities has occurred within an electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. Ten percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Metropolitan area" means any community, or group of contiguous communities, with a population of 20,000 individuals or more.

"Momentary average interruption frequency index (MAIFI)" means the average number of momentary electric service interruptions for each customer during the year. It is calculated by dividing the total number of customer momentary interruptions by the total number of customers served.

$$\text{MAIFI} = \frac{\text{Total Number of Customer Momentary Interruptions}}{\text{Total Number of Customers Served}}$$

"OMS" is a computerized outage management system.

"Operating area" means a geographical area defined by the electric utility that is a distinct area for administration, operation, or data collection with respect to the facilities serving, or the service provided within, the geographical area.

"Outage" means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of service to customers, depending on system configuration.

"Power quality" means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes and transients, flickers and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

"Rural circuit" means a circuit not defined as an urban circuit.

"System average interruption duration index (SAIDI)" means the average interruption duration per customer served during the year. It is calculated by dividing the sum of the customer interruption durations by the total number of customers served during the year.

$$\text{SAIDI} = \frac{\text{Sum of All Customer Interruption Durations}}{\text{Total Number of Customers Served}}$$

"System average interruption frequency index (SAIFI)" means the average number of interruptions per customer during the year. It is calculated by dividing the total annual number of customer interruptions by the total number of customers served during the year.

$$\text{SAIFI} = \frac{\text{Total Number of Customer Interruptions}}{\text{Total Number of Customers Served}}$$

"Total number of customers served" means the total number of customers served on the last day of the reporting period.

"Urban circuit" means a circuit where both 75 percent or more of its customers and 75 percent or more of its primary circuit miles are located within a metropolitan area.

20.18(5) *Record-keeping requirements.*

a. Required records for electric utilities with over 50,000 Iowa retail customers.

(1) Each electric utility shall maintain a geospatial information system (GIS) and an outage management system (OMS) sufficient to determine a history of sustained electric service interruptions experienced by each customer. The OMS shall have the ability to access data for each customer in order to determine a history of electric service interruptions. Data shall be sortable by each of, and in any combination with, the following factors:

1. State jurisdiction;
2. Operating area (if any);
3. Substation;
4. Circuit;
5. Number of interruptions in reporting period; and
6. Number of hours of interruptions in reporting period.

(2) Records on interruptions shall be sufficient to determine the following:

1. Starting date and time the utility became aware of the interruption;
2. Duration of the interruption;
3. Date and time service was restored;
4. Number of customers affected;
5. Description of the cause of the interruption;
6. Operating areas affected;
7. Circuit number(s) of the distribution circuit(s) affected;
8. Service account number or other unique identifier of each customer affected;
9. Address of each affected customer location;
10. Weather conditions at time of interruption;
11. System component(s) involved (e.g., transmission line, substation, overhead primary main, underground primary main, transformer); and
12. Whether the interruption was planned or unplanned.

(3) Each electric utility shall maintain as much information as feasible on momentary interruptions.

(4) Each electric utility shall keep information on cause codes, weather codes, isolating device codes, and equipment failed codes.

1. The minimum interruption cause code set should include: animals, lightning, major event, scheduled, trees, overload, error, supply, equipment, other, unknown, and earthquake.
2. The minimum interruption weather code set should include: wind, lightning, heat, ice/snow, rain, clear day, and tornado/hurricane.

3. The minimum interruption isolating device set should include: breaker, recloser, fuse, sectionalizer, switch, and elbow.

4. The minimum interruption equipment failed code set should include: cable, transformer, conductor, splice, lightning arrester, switches, cross arm, pole, insulator, connector, other, and unknown.

5. Utilities may augment the code sets listed above to enhance tracking.

(5) An electric utility shall retain for seven years the records required by 20.18(5)*"a"*(1) through (4).

(6) Each electric utility shall record the date of installation of major facilities (poles, conductors, cable, and transformers) installed on or after April 1, 2003, and integrate that data into its GIS database.

b. Required records for all other electric utilities.

(1) Each electric utility, other than those providing only wholesale electric service, shall record and maintain sufficient records and reports that will enable it to calculate for the most recent seven-year period the average annual hours of interruption per customer due to causes in each of the following four major categories: power supplier, major storm, scheduled, and all other. Those electric utilities that provide only wholesale electric service shall provide their wholesale customers with the information necessary to allow those customers to ascertain the cause of power supply-related outages.

The category "scheduled" refers to interruptions resulting when a distribution transformer, line, or owned substation is deliberately taken out of service at a selected time for maintenance or other reasons.

The interruptions resulting from either scheduled or unscheduled outages on lines or substations owned by the power supplier are to be accounted for in the "power supplier" category.

The category "major storm" represents service interruptions from conditions that cause many concurrent outages because of snow, ice, or wind loads that exceed design assumptions for the lines.

The "all other" category includes outages primarily resulting from emergency conditions due to equipment breakdown, malfunction, or human error.

(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin 1730A-119, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

(3) Each electric utility, other than those providing only wholesale electric service, shall also maintain and record data sufficient to enable it to compute systemwide calculated indices for SAIFI-, SAIDI-, and CAIDI-type measurements, once with the data associated with "major storms" and once without.

c. Each electric utility shall make its records of customer interruptions available to the board as needed.

20.18(6) *Notification of major events.* Notification of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 199—20.19(476,478).

20.18(7) *Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.* Each electric utility with over 50,000 Iowa retail customers shall submit to the board and consumer advocate on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

a. Description of service area. Urban and rural Iowa service territory customer count, Iowa operating area customer count, if applicable, and major communities served within each operating area.

b. System reliability performance.

(1) An overall assessment of the reliability performance, including the urban and rural SAIFI, SAIDI, and CAIDI reliability indices for the previous calendar year for the Iowa service territory and each defined Iowa operating area, if applicable. This assessment shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. These indices shall be calculated twice, once with the data associated with major events and once without. This assessment should contain tabular and graphical presentations of the trend for each index as well as the trends of the major causes of interruptions.

(2) The urban and rural SAIFI, SAIDI, and CAIDI reliability average indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area, if applicable. The reliability average indices shall include outages at the substation, transmission, and generation levels of the system that directly result in sustained interruptions to customers on the distribution system. Calculation of the five-year average shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal a complete five-year average shall be available. These indices shall be calculated twice, once with the data associated with major events and once without.

(3) The MAIFI reliability indices for the previous five calendar years for the Iowa service territory and each defined Iowa operating area for which momentary interruptions are tracked. The first annual report should specify which portions of the system are monitored for momentary interruptions, identify and describe the quality of data used, and update as needed in subsequent reports.

c. Reporting on customer outages.

(1) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced set numbers of sustained interruptions during the year (i.e., the number of customers who experienced zero interruptions, the number of customers who experienced one interruption, two interruptions, three interruptions, and so on). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

(2) The reporting electric utility shall provide tables and graphical representations showing, in ascending order, the total number of customers that experienced a set range of total annual sustained interruption duration during the year (i.e., the number of customers who experienced zero hours total duration, the number of customers who experienced greater than 0.0833 but less than 0.5 hour total duration, the number of customers who experienced greater than 0.5 but less than 1.0 hour total duration, and so on, reflecting half-hour increments of duration). The utility shall provide this for each of the following:

1. All Iowa customers, excluding major events.
2. All Iowa customers, including major events.

d. Major event summary. For each major event that occurred in the reporting period, the following information shall be provided:

(1) A description of the area(s) impacted by each major event;

(2) The total number of customers interrupted by each major event;

(3) The total number of customer-minutes interrupted by each major event; and

(4) Updated damage cost estimates to the electric utility's facilities.

e. Information on transmission and distribution facilities.

(1) Total circuit miles of electric distribution line in service at year's end, segregated by voltage level. Reasonable groupings of lines with similar voltage levels, such as but not limited to 12,000- and 13,000-volt three-phase facilities, are acceptable.

(2) Total circuit miles of electric transmission line in service at year's end, segregated by voltage level.

f. Plans and status report.

(1) A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

1. The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)*"g"*(1) and 20.18(7)*"h"*(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate.

The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.

2. The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.

3. The plan shall provide an estimate of the timing for achievement of the plan's goals.

(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.

g. Capital expenditure information. Reporting of capital expenditure information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Each electric utility shall report on an annual basis the total of:

1. Capital investment in the electric utility's Iowa-based transmission and distribution infrastructure approved by its board of directors or other appropriate authority. If any amounts approved by the board of directors are designated for use in a recovery from a major event, those amounts shall be identified in addition to the total.

2. Capital investment expenditures in the electric utility's Iowa-based transmission and distribution infrastructure. If any expenditures were utilized in a recovery from a major event, those amounts shall be identified in addition to the total.

(2) Each electric utility shall report the same capital expenditure data from the past five years in the same fashion as in 20.18(7)*"g"*(1).

h. Maintenance. Reporting of maintenance information shall start with data from the year covered by the first Annual Reliability Report submittal so that by the fifth Annual Reliability Report submittal five years of data shall be available in each subsequent annual report.

(1) Total maintenance budgets and expenditures for distribution, and for transmission, for each operating area, if applicable, and for the electric utility's entire Iowa system for the past five years. If any maintenance budgets and expenditures are designated for use in a recovery from a major event, or were used in a recovery from a major event, respectively, those amounts shall be identified in addition to the totals.

(2) Tree trimming.

1. The budget and expenditures described in 20.18(7)*"h"*(1) shall be stated in such a way that the total annual tree trimming budget expenditures shall be identifiable for each operating area and for the electric utility's entire Iowa system for the past five years.

2. Total annual projected and actual miles of transmission line and of distribution line for which trees were trimmed for the reporting year for each operating area and for the electric utility's entire Iowa system for the reporting year, compared to the past five years. If the utility has utilized, or would prefer to utilize, an alternative method or methods of tracking physical tree trimming progress, it may propose the use of that method or methods to the board in a request for waiver.

3. In the event the utility's actual tree trimming performance, based on how the utility tracks its tree trimming as described in 20.18(7)*"h"*(2)"1," lags behind its planned trimming schedule by more than six months, the utility shall be required to file for the board's approval additional tree trimming status reports on a quarterly basis. Such reports shall describe the steps the utility will take to remediate its tree trimming performance and backlog. The additional quarterly reports shall continue until the utility's backlog has been reduced to zero.

i. The annual reliability report, starting with the reliability report for calendar year 2008, shall include the number of poles inspected, the number rejected, and the number replaced.

20.18(8) *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

a. By July 1, 2003, each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan and shall file an informational copy of the plan with the board. The plan shall be updated not less than annually and shall describe the following:

(1) The utility's current reliability programs, including:

1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3)*"c"*;

2. Animal contact reduction programs, if applicable;

3. Lightning outage mitigation programs, if applicable; and

4. Other programs the electric utility may identify as reliability-related.

(2) Current ability to track and monitor interruptions.

(3) How the electric utility plans to communicate its plan with customers/consumer owners.

b. By April 1, 2004, and each April 1 thereafter, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on at least the following:

(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5)*"b"*(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.

(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8)*"a"*(1).

20.18(9) *Inquiries about electric service reliability.*

a. For electric utilities with over 50,000 Iowa retail customers. A customer may request a report from an electric utility about the service reliability of the circuit supplying the customer's own meter. Within 20 working days of receipt of the request, the electric utility shall supply the report to the customer at a reasonable cost. The report should identify which interruptions (number and durations) are due to major events.

b. Other utilities are encouraged to adopt similar responses to the extent it is administratively feasible.

[**ARC 8394B**, IAB 12/16/09, effective 1/20/10; **ARC 9501B**, IAB 5/18/11, effective 6/22/11]

199—20.19(476,478) Notification of outages.

20.19(1) *Notification.* The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. For all utilities, loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. For utilities with 50,000 or more customers, loss of service for more than six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than six hours to 25 percent or more of the utility's customers;

d. A major event as defined in subrule 20.18(4); or

e. Any other outage considered significant by the electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1)*"a"* through *"d."*

20.19(2) *Information required.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 20.19(1) by notifying the board duty officer by e-mail at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by telephone at (515)745-2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage.

The notice should be supplemented as more complete or accurate information is available.

b. The utility shall provide to the board updates of the estimated time when service will be restored to all customers able to receive service or of significant changed circumstances, unless service is restored within one hour of the time initially estimated.

[**ARC 8394B**, IAB 12/16/09, effective 1/20/10; Editorial change: IAC Supplement 12/29/10; **ARC 9819B**, IAB 11/2/11, effective 12/7/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 1623C**, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code sections 17A.3, 364.23, 474.5, 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18, and 546.7.

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[1] Effective date of 20.3(13) *"a," "b,"* (1), (2), (3), (4), and *"c"* delayed 70 days by Administrative Rules Review Committee.

[2] Effective date of 20.4(12), third unnumbered paragraph, delayed seventy days by the Administrative Rules Review Committee.

[3] See IAB, Utilities Division.

[4] Published in Notice portion of IAB 9/10/86; see IAB 10/22/86

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CHAPTER 25
IOWA ELECTRICAL SAFETY CODE
[Prior to 10/8/86, Commerce Commission[250]]

199—25.1(476,476A,478) General information.

25.1(1) *Authority.* The standards relating to electric and communication facilities in this chapter are prescribed by the Iowa utilities board pursuant to Iowa Code sections 476.1, 476.1B, 476.2, 476A.12, 478.19, and 478.20.

25.1(2) *Purpose.* The purpose of this chapter is to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities. The rules apply to electric and communication utility facilities located in the state of Iowa and shall supersede all conflicting rules of any such utility. This rule shall in no way relieve any utility from any of its duties under the laws of this state.

25.1(3) *Definition of utility.* For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the board.

[**ARC 9501B**, IAB 5/18/11, effective 6/22/11]

199—25.2(476,476A,478) Iowa electrical safety code defined. The standard minimum requirements for the installation and maintenance of electric substations, generating stations, and overhead and underground electric supply or communications lines adopted below, collectively constitute the "Iowa Electrical Safety Code."

25.2(1) *National Electrical Safety Code.* The American National Standards Institute (ANSI) C2-2012, "National Electrical Safety Code" (NESC), including issued Correction Sheets, is adopted as part of the Iowa electrical safety code, except Part 4, "Rules for Operation of Electric Supply and Communications Lines and Equipment," which is not adopted by the board.

25.2(2) *Modifications and qualifications to ANSI C2.* The standards set forth in ANSI C2 are modified or qualified as follows:

a. Introduction to the National Electrical Safety Code. NESC 013A2 is modified to read as follows: "Types of construction and methods of installation other than those specified in the rules may be used experimentally to obtain information, if done where:

"1. Qualified supervision is provided,

"2. Equivalent safety is provided,

"3. On joint-use facilities, all joint users are notified in a timely manner, and

"4. Prior approval is obtained from the Iowa utilities board."

b. Minimum clearances.

(1) In any instance where minimum clearances are provided in Iowa Code chapter 478 which are greater than otherwise required by these rules, the statutory clearances shall prevail.

(2) The following clearances shall apply to all lines regardless of date of construction: NESC 232, vertical clearances for "Water areas not suitable for sailboating or where sailboating is prohibited," "Water areas suitable for sailboating . . . ," and "Established boat ramps and associated rigging areas . . . "; and NESC 234E, "Clearance of Wires, Conductors, Cables or Unguarded Rigid Live Parts Installed Over or Near Swimming Areas With No Wind Displacement."

(3) Table 232-1, Footnote 21, is changed to read: "Where the U.S. Army Corps of Engineers or the state, or a surrogate thereof, issues a crossing permit, the clearances of that permit shall govern if equal to or greater than those required herein. Where the permit clearances are less than those required herein and water surface use restrictions on vessel heights are enforced, the permit clearances may be used."

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2012 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2012 editions of the NESC.)

c. Reserved.

d. Rule 217C.1 is changed to read:

"The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a conspicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

e. There is added to Rule 381G:

(3) Pad-mounted and other aboveground equipment not located within a fenced or otherwise protected area shall have affixed to its outside access door or cover a prominent "Warning" or other appropriate sign of highly visible color, warning of hazardous voltage and including the name of the utility. This rule shall apply to all signs placed or replaced after June 18, 2003.

f. There is added to the first paragraph of Rule 110.A.1, after the sentence stating, "Entrances not under observation of an authorized attendant shall be kept locked," the following sentences:

Entrances may be unlocked while authorized personnel are inside. However, if unlocked, the entrance gate must be fully closed, and must also be latched or fastened if there is a gate-latching mechanism.

g. Lines crossing railroad tracks shall comply with the additional requirements of 199 IAC 42.6(476), "Engineering standards for electric and communications lines."

25.2(3) *Grain bins.*

a. Electric utilities shall conduct annual public information campaigns to inform farmers, farm lenders, grain bin merchants, and city and county zoning officials of the hazards of and standards for construction of grain bins near power lines. Where drawings and formulas from the NESC are used as part of public information campaigns, they are to be based on the "Errata to 2012 Edition National Electrical Safety Code" Correction Sheet issued February 6, 2012.

b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by the American National Standards Institute (ANSI) C2-2012 "National Electrical Safety Code," Rule 234F. This paragraph *"b"* shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, conveyors, or elevator systems installed after December 24, 1997.

25.2(4) *General rules.*

a. Joint-use construction. Where it is mutually agreeable between an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

b. Lines. In order to limit the residual currents and voltages arising from line unbalances, the resistance, inductance, capacitance and leakage conductance of each phase conductor of an electric supply circuit in any section shall be as nearly equal as practical to the corresponding quantities in the other phase conductors in the same section.

The ampacity of a multigrounded neutral conductor of an electric supply circuit shall be adequate for the load which it is required to carry. The ampacity of a multigrounded neutral conductor of an electric supply circuit shall not be less than 60 percent of that of any phase conductor with which it is associated, except for three phase four wire wye circuits where it shall have ampacity not less than 50 percent of that of any associated phase conductor. In no case shall the resistance of a multigrounded neutral conductor exceed 3.6 ohms per mile. (This does not modify the mechanical strength requirements for conductors.) A multigrounded conductor installed and utilized primarily for lightning shielding of the associated phase conductors need not comply with the above percentage ampacity requirements for neutral conductors.

Where the neutral conductor of the electric supply circuit is not multigrounded or in an inductive exposure involving communication or signal circuits and equipment where the controlling frequencies are 360 Hertz or lower, any neutral conductor shall have the same ampacity as the phase conductors with which it is associated.

25.2(5) *Other references adopted.*

a. The "National Electrical Code," ANSI/NFPA 70-2014, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in 661—504.1(103).

b. "The Lineman's and Cableman's Handbook," Twelfth Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the "National Electrical Safety Code" or "National Electrical Code," and for developing the inspection and maintenance plans required by 199—25.3(476,478).

[**ARC 7962B**, IAB 7/15/09, effective 8/19/09; **ARC 9501B**, IAB 5/18/11, effective 6/22/11; **ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—25.3(476,478) Inspection and maintenance plans.

25.3(1) *Filing of plan.* Each electric utility shall adopt and file with the board a written plan for inspecting and maintaining its electric supply lines and substations (excluding generating stations) in order to determine the necessity for replacement, maintenance, and repair, and for tree trimming or other vegetation management. If the plan is amended or altered, revised copies of the appropriate plan pages shall be filed.

25.3(2) *Annual report.* Each utility shall include as part of its annual report to the board, as required by 199—Chapter 23, certification of compliance with each area of the inspection plan or a detailed statement on areas of noncompliance.

25.3(3) *Contents of plan.* The inspection plan shall include the following elements:

a. *General.* A listing of all counties or parts of counties in which the utility has electric supply lines in Iowa. If the utility has district or regional offices responsible for implementation of a portion of the plan, the addresses of those offices and a description of the territory for which they are responsible shall also be included.

b. *Inspection of lines, poles, and substations.*

(1) Inspection schedules. The plan shall contain a schedule for the periodic inspection of the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry, but for lines and substations shall not exceed ten years for any given line or piece of equipment. Lines operated at 34.5 kV or above shall be inspected at least annually for damage and to determine the condition of the overhead line insulators.

(2) Inspection coverage. The plan shall provide for the inspection of all supply line and substation units within the adopted inspection periods and shall include a complete listing of all categories of items to be checked during an inspection.

(3) Conduct of inspections. Inspections shall be conducted in a manner conducive to the identification of safety, maintenance, and reliability concerns or needs.

(4) Instructions to inspectors. Copies of instructions or guide materials used by utility inspectors in determining whether a facility is in acceptable condition or in need of corrective action or further investigation.

c. *Tree trimming or vegetation management plan.*

(1) Schedule. The plan shall contain a schedule for periodic tree trimming or other measures to control vegetation growth under or along the various units of the utility's electric plant. The period between inspections shall be based on accepted good practice in the industry and may vary depending on the nature of the vegetation at different locations.

(2) Procedures. The plan shall include written procedures for vegetation management. The procedures shall promote the safety and reliability of electric lines and facilities. Where tree trimming is employed, practices shall be adopted that will protect the health of the tree and reduce undesirable regrowth patterns.

d. *Pole inspections.* Pole inspections shall periodically include an examination of the poles that includes tests in addition to visual inspection in appropriate circumstances. These additional tests may include sounding, boring, groundline exposure, and, if applicable, pole treatment.

25.3(4) *Records.* Each utility shall keep sufficient records to demonstrate compliance with its inspection and vegetation management plans. For each inspection unit, the records of line and substation inspections and pole inspections shall include the inspection date(s), the findings of the inspection, and the disposition or scheduling of repairs or maintenance found necessary during the inspection. For each inspection unit, the records of vegetation management shall include the date(s) during which the work was conducted. The records shall be kept until two years after the next periodic inspection or vegetation management action is completed or until all necessary repairs and maintenance are completed, whichever is longer.

25.3(5) *Guidelines.* Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-2008 (R2014), "Pruning," and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

[**ARC 1359C**, IAB 3/5/14, effective 4/9/14; **ARC 2711C**, IAB 9/14/16, effective 10/19/16]

199—25.4(476,478) Correction of problems found during inspections and pole attachment procedures.

25.4(1) Corrective action shall be taken within a reasonable period of time on all potentially hazardous conditions, instances of safety code noncompliance, maintenance needs, potential threats to safety and reliability, or other concerns identified during inspections. Hazardous conditions shall be corrected promptly. In addition to the general requirements stated in this subrule, pole attachments shall comply with the specific requirements and procedures established in subrule 25.4(2).

25.4(2) To ensure the safety of pole attachments to poles owned by utilities in Iowa, this subrule establishes requirements for attaching electric lines, communications lines, cable systems, video service lines, data lines, wireless antennae and other wireless facilities, or similar lines and facilities that are attached to the excess space on poles owned by utilities.

a. Definitions. The following definitions shall apply to this rule.

"Pole" means any pole owned by a utility that carries electric lines, communications lines, cable systems, video service lines, data service lines, wireless antennae or other wireless facilities, or similar lines and facilities.

"Pole attachment" means any electric line, communication circuit, cable system, video service line, data service line, antenna and other associated wireless equipment, or similar lines and facilities attached to a pole or other supporting structure subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

"Pole occupant" means any electric utility, telecommunications carrier, cable system provider, video service provider, data service provider, wireless service provider, or similar person or entity that constructs, operates, or maintains pole attachments as defined in this chapter.

"Pole owner" means a utility that owns poles subject to the safety jurisdiction of the board pursuant to the Iowa electrical safety code, 199—25.2(476,476A,478).

b. Compliance with Iowa electrical safety code. Pole attachments to poles shall be constructed, installed, operated, and maintained in compliance with the Iowa electrical safety code, 199—25.2(476,476A,478), and the requirements and procedures established in this subrule.

c. Requests for access to poles; exceptions for service drops and overlashing.

(1) A pole owner shall provide nondiscriminatory access to poles it owns, to the extent required by federal or state law. Requests for access to poles by an electric utility, telecommunications carrier, cable system operator, video service provider, data service provider, wireless service provider, or similar person or entity shall be made in writing or by any method as may be agreed upon by the pole owner and the person or entity requesting access to the pole. If access is denied, the pole owner shall explain in detail the specific reason for denial and how the denial relates to reasons of lack of capacity, safety, reliability, or engineering standards.

(2) Service drops are not subject to the notice and approval requirements in subparagraph 25.4(2)*"c"*(1). Instead, pole occupants shall provide notice to pole owners within 30 days of the

installation of a new service drop, unless the pole occupant and pole owner have negotiated a different notification requirement.

(3) Overlashing of existing lines is not subject to the notice and approval requirements in subparagraph 25.4(2)*"c"*(1). Pole occupants shall provide notice to pole owners of proposed overlashing at least 7 days prior to installation of the overlashing, unless the pole occupant and pole owner have negotiated a different notification requirement.

d. Notification of violation. A pole owner shall notify in writing a pole occupant of an alleged violation of the Iowa electrical safety code by a pole attachment owned by the pole occupant or may provide notice by another method as may be agreed upon by the parties to a pole attachment agreement. The notice shall include the address and pole location where the alleged violation occurred, a description of the alleged violation, and suggested corrective action.

e. Corrective action.

(1) Upon receipt of notification from a pole owner that the pole occupant has one or more pole attachments in violation of the Iowa electrical safety code, the pole occupant shall respond to the pole owner within 60 days in writing or by another method as may be agreed upon by the pole occupant and the pole owner. The response shall provide a plan for corrective action, state that the violation has been corrected, indicate that the pole attachment is owned by a different pole occupant, or indicate that the pole occupant disputes that a violation has occurred. The violation shall be corrected within 180 days of the date notification is received unless good cause is shown for any delay in taking corrective action. A disagreement that a violation has occurred, a claim that correction is not possible within the specific time frames due to events beyond the control of the pole occupant, or a claim that a different pole occupant is responsible for the alleged violation will be considered good cause to extend the time for taking corrective action. The pole occupant and pole owner may also agree to an extension of the time for taking corrective action. The pole owner and pole occupant shall cooperate in determining the cause of a violation and an efficient and cost-effective method of correcting a violation.

(2) If the violation could reasonably be expected to endanger life or property, the pole occupant shall take the necessary action to correct, disconnect, or isolate the problem immediately upon notification. If immediate corrective action is not taken by the pole occupant for a violation that could reasonably be expected to endanger life or property, the pole owner may take the necessary corrective action and the pole occupant shall reimburse the pole owner for the actual cost of any corrective measures. If the pole owner is later determined to have caused the violation and the pole occupant has taken corrective action, the pole owner shall reimburse the pole occupant for the actual cost of the corrective action. Disputes concerning the ownership of the pole attachment should be resolved as quickly as possible.

f. Negotiated resolution of disputes. Parties to disputes over alleged violations of the Iowa electrical safety code, the cause of a violation, the pole occupant responsible for the violation, the cost-effective corrective action, or any other dispute regarding the provisions of subrule 25.4(2) shall attempt to resolve disputes through good-faith negotiations. Parties may file an informal complaint with the board pursuant to 199—Chapter 6 as part of negotiations.

g. Complaints. Complaints concerning the requirements or procedures established in subrule 25.4(2), including alleged violations of the Iowa electrical safety code, may be filed with the board by pole owners or pole occupants pursuant to the complaint procedures in 199—Chapter 6.

h. Civil penalties. Persons found to have violated the provisions of subrule 25.4(2) may be subject to civil penalties pursuant to Iowa Code section 476.51 or to other action by the board.

[**ARC 1259C**, IAB 1/8/14, effective 2/12/14]

199—25.5(476,478) Accident reports. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.

25.5(1) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

25.5(2) All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

a. An employee or other person coming in contact with energized electrical facilities which results in death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and others.

c. Any other incident considered significant by the company.

25.5(3) The board shall be notified immediately, or as soon as practical thereafter, by e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332. The person contacting the board shall leave a telephone number of a person who can provide the following information:

a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.

e. Initial estimate of damages.

f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

25.5(4) Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(3), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

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◊ Two or more ARCs

CHAPTER 5
FEES

645—5.1(147,152D) Athletic training license fees. All fees are nonrefundable.

5.1(1) License fee for license to practice athletic training is $120.

5.1(2) Temporary license fee for license to practice athletic training is $120.

5.1(3) Biennial license renewal fee for each biennium is $120.

5.1(4) Late fee for failure to renew before expiration is $60.

5.1(5) Reactivation fee is $180.

5.1(6) Duplicate or reissued license certificate or wallet card fee is $20.

5.1(7) Verification of license fee is $20.

5.1(8) Returned check fee is $25.

5.1(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

645—5.2(147,158) Barbering license fees. All fees are nonrefundable.

5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is $60.

5.2(2) Biennial renewal fee for a barber license or barber instructor license is $60.

5.2(3) Temporary permit fee is $12.

5.2(4) Practical examination fee is $75.

5.2(5) Demonstrator permit fee is $45 for the first day and $12 for each day thereafter for which the permit is valid.

5.2(6) Barber school license fee is $600.

5.2(7) Barber school annual renewal fee is $300.

5.2(8) Barbershop license fee is $72.

5.2(9) Biennial renewal fee for a barbershop license is $72.

5.2(10) Late fee for failure to renew before expiration is $60.

5.2(11) Reactivation fee for a barber license is $120.

5.2(12) Reactivation fee for a barbershop license is $132.

5.2(13) Reactivation fee for a barber school license is $360.

5.2(14) Duplicate or reissued license certificate or wallet card fee is $20.

5.2(15) Verification of license fee is $20.

5.2(16) Returned check fee is $25.

5.2(17) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

[**ARC 8349B**, IAB 12/2/09, effective 1/6/10]

645—5.3(147,154D) Behavioral science license fees. All fees are nonrefundable.

5.3(1) License fee for license to practice marital and family therapy or mental health counseling is $120.

5.3(2) Temporary license fee for license to practice marital and family therapy or mental health counseling is $120.

5.3(3) Biennial license renewal fee for each biennium is $120.

5.3(4) Late fee for failure to renew before expiration is $60.

5.3(5) Reactivation fee is $180.

5.3(6) Duplicate or reissued license certificate or wallet card fee is $20.

5.3(7) Verification of license fee is $20.

5.3(8) Returned check fee is $25.

5.3(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[**ARC 8152B**, IAB 9/23/09, effective 10/28/09]

645—5.4(151) Chiropractic license fees. All fees are nonrefundable.

5.4(1) License fee for license to practice chiropractic is $270.

5.4(2) Fee for issuance of annual temporary certificate is $120.

5.4(3) Biennial license renewal fee is $120.

5.4(4) Late fee for failure to renew before the expiration date is $60.

5.4(5) Reactivation fee is $180.

5.4(6) Duplicate or reissued license certificate or wallet card fee is $20.

5.4(7) Fee for verification of license is $20.

5.4(8) Returned check fee is $25.

5.4(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

645—5.5(147,157) Cosmetology arts and sciences license fees. All fees are nonrefundable.

5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is $60.

5.5(2) Biennial license renewal fee for each license for each biennium is $60.

5.5(3) Late fee for failure to renew before expiration is $60.

5.5(4) Reactivation fee for applicants licensed to practice cosmetology is $120; for salons, $144; and for schools, $330.

5.5(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.5(6) Fee for verification of license is $20.

5.5(7) Returned check fee is $25.

5.5(8) Disciplinary hearing fee is a maximum of $75.

5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is $600.

5.5(10) Fee for renewal of a school license is $270 annually.

5.5(11) Salon license fee is $84.

5.5(12) Biennial license renewal fee for each salon license for each biennium is $84.

5.5(13) Demonstrator and not-for-profit temporary permit fee is $42 for the first day and $12 for each day thereafter that the permit is valid.

5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is $25 for each type of procedure or certified laser product or IPL device.

5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is $25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

645—5.6(147,152A) Dietetics license fees. All fees are nonrefundable.

5.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is $120.

5.6(2) Biennial license renewal fee for each biennium is $120.

5.6(3) Late fee for failure to renew before expiration is $60.

5.6(4) Reactivation fee is $180.

5.6(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.6(6) Verification of license fee is $20.

5.6(7) Returned check fee is $25.

5.6(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

645—5.7(147,154A) Hearing aid specialists license fees. All fees are nonrefundable.

5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is $156.

5.7(2) Examination fee (check or money order made payable to the International Hearing Society) is $95.

5.7(3) Renewal of license fee is $60.

5.7(4) Temporary permit fee is $42.

5.7(5) Late fee is $60.

5.7(6) Reactivation fee is $120.

5.7(7) Duplicate or reissued license certificate or wallet card fee is $20.

5.7(8) Verification of license fee is $20.

5.7(9) Returned check fee is $25.

5.7(10) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapter 154A.

[**ARC 2151C**, IAB 9/16/15, effective 10/21/15]

645—5.8(147) Massage therapy license fees. All fees are nonrefundable.

5.8(1) License fee for license to practice massage therapy is $120.

5.8(2) Biennial license renewal fee for each biennium is $60.

5.8(3) Temporary license fee for up to one year is $120.

5.8(4) Late fee for failure to renew before expiration is $60.

5.8(5) Reactivation fee is $120.

5.8(6) Duplicate or reissued license certificate or wallet card fee is $20.

5.8(7) Verification of license fee is $20.

5.8(8) Returned check fee is $25.

5.8(9) Disciplinary hearing fee is a maximum of $75.

5.8(10) Initial application fee for approval of massage therapy education curriculum is $120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

645—5.9(147,156) Mortuary science license fees. All fees are nonrefundable.

5.9(1) License fee for license to practice funeral directing is $120.

5.9(2) Biennial funeral director's license renewal fee for each biennium is $120.

5.9(3) Late fee for failure to renew before expiration is $60.

5.9(4) Reactivation fee for a funeral director is $180 and for a funeral establishment or cremation establishment is $150.

5.9(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.9(6) Verification of license fee is $20.

5.9(7) Returned check fee is $25.

5.9(8) Disciplinary hearing fee is a maximum of $75.

5.9(9) Funeral establishment or cremation establishment fee is $90.

5.9(10) Three-year renewal fee of funeral establishment or cremation establishment is $90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

645—5.10(147,155) Nursing home administrators license fees. All fees are nonrefundable.

5.10(1) License fee for license to practice nursing home administration is $120.

5.10(2) Biennial license renewal fee for each license for each biennium is $60.

5.10(3) Late fee for failure to renew before expiration is $60.

5.10(4) Reactivation fee is $120.

5.10(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.10(6) Verification of license fee is $20.

5.10(7) Returned check fee is $25.

5.10(8) Disciplinary hearing fee is a maximum of $75.

5.10(9) Provisional license fee is $120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

645—5.11(147,148B) Occupational therapy license fees. All fees are nonrefundable.

5.11(1) License fee for an OT or OTA license to practice occupational therapy is $120.
5.11(2) Biennial license renewal fee to practice occupational therapy is $60.
5.11(3) Biennial license renewal fee for an occupational therapy assistant is $60.
5.11(4) Late fee for failure to renew before expiration is $60.
5.11(5) Reactivation fee is $120.
5.11(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.11(7) Verification of license fee is $20.
5.11(8) Returned check fee is $25.
5.11(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

645—5.12(147,154) Optometry license fees. All fees are nonrefundable.
5.12(1) License fee for license to practice optometry, license by endorsement, or license by reciprocity is $300.
5.12(2) Biennial license renewal fee for each biennium is $144.
5.12(3) Late fee for failure to renew before expiration date is $60.
5.12(4) Reactivation fee is $204.
5.12(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.12(6) Verification of license fee is $20.
5.12(7) Returned check fee is $25.
5.12(8) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

645—5.13(147,148A) Physical therapy license fees. All fees are nonrefundable.
5.13(1) License fee for license to practice physical therapy or as a physical therapist assistant is $120.
5.13(2) Biennial license renewal fee for a physical therapist is $60.
5.13(3) Biennial license renewal fee for a physical therapist assistant is $60.
5.13(4) Late fee for failure to renew before expiration is $60.
5.13(5) Reactivation fee is $120.
5.13(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.13(7) Verification of license fee is $20.
5.13(8) Returned check fee is $25.
5.13(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

645—5.14(148C) Physician assistants license fees. All fees are nonrefundable.
5.14(1) Application fee for a license is $120.
5.14(2) Fee for a temporary license is $120.
5.14(3) Renewal of license fee is $120.
5.14(4) Late fee for failure to renew before expiration is $60.
5.14(5) Reactivation fee is $180.
5.14(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.14(7) Fee for verification of license is $20.
5.14(8) Returned check fee is $25.
5.14(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

645—5.15(147,148F,149) Podiatry license fees. All fees are nonrefundable.
5.15(1) License fee for license to practice podiatry, license by endorsement, or license by reciprocity is $400.
5.15(2) License fee for temporary license to practice podiatry is $200.

5.15(3) The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall be $600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be $400.

5.15(4) Biennial license renewal fee is $400 for each biennium.

5.15(5) Reactivation fee is $460.

5.15(6) Temporary license renewal fee is $200.

5.15(7) Late fee for failure to renew before expiration is $60.

5.15(8) Duplicate or reissued license certificate or wallet card fee is $20.

5.15(9) Verification of license fee is $20.

5.15(10) Returned check fee is $25.

5.15(11) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 148F, 149 and 272C.

[**ARC 1192C**, IAB 11/27/13, effective 1/1/14]

645—5.16(147,154B) Psychology license fees. All fees are nonrefundable.

5.16(1) License fee for license to practice psychology is $120.

5.16(2) Biennial license renewal fee is $170.

5.16(3) Late fee for failure to renew before expiration is $60.

5.16(4) Reactivation fee is $230.

5.16(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.16(6) Verification of license fee is $20.

5.16(7) Returned check fee is $25.

5.16(8) Disciplinary hearing fee is a maximum of $75.

5.16(9) Processing fee for exemption to licensure is $60.

5.16(10) Certification fee for a health service provider is $60.

5.16(11) Biennial renewal fee for certification as a certified health service provider in psychology is $60.

5.16(12) Reactivation fee for certification as a certified health service provider in psychology is $60.

5.16(13) Provisional license fee is $120.

5.16(14) Provisional license renewal fee is $170.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C and 2014 Iowa Acts, chapter 1043.

[**ARC 1834C**, IAB 1/21/15, effective 2/25/15]

645—5.17(147,152B) Respiratory care license fees. All fees are nonrefundable.

5.17(1) Initial license fee.

a. The initial license fee for a respiratory care practitioner license is $75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

b. The initial license fee for a polysomnographic technologist license is $330, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

c. The initial license fee for a respiratory care and polysomnography practitioner license is $90, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

5.17(2) Biennial license renewal fee for each biennium.

a. The biennial license renewal fee for each biennium for a respiratory care practitioner license is $75.

b. The biennial license renewal fee for each biennium for a polysomnographic technologist license is $330.

c. The biennial license renewal fee for each biennium for a respiratory care and polysomnography practitioner license is $90.

5.17(3) Late fee for failure to renew before expiration is $60.

5.17(4) Reactivation fee.

a. The reactivation fee to practice respiratory care is $135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

b. The reactivation fee to practice as a polysomnographic technologist is $390, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

c. The reactivation fee to practice respiratory care and polysomnography is $150, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

5.17(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.17(6) Verification of license fee is $20.

5.17(7) Returned check fee is $25.

5.17(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.

[**ARC 2717C**, IAB 9/14/16, effective 10/19/16]

645—5.18(147,154E) Sign language interpreters and transliterators license fees. All fees are nonrefundable.

5.18(1) License fee for license to practice interpreting or transliterating is $120.

5.18(2) License fee for temporary license to practice interpreting or transliterating is $120.

5.18(3) Biennial license renewal fee for each biennium is $120.

5.18(4) Late fee for failure to renew before expiration is $60.

5.18(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.18(6) Verification of license fee is $20.

5.18(7) Returned check fee is $25.

5.18(8) Disciplinary hearing fee is a maximum of $75.

5.18(9) Reactivation fee is $180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

645—5.19(147,154C) Social work license fees. All fees are nonrefundable.

5.19(1) License fee for license to practice social work is $120.

5.19(2) Biennial license renewal fee for a license at the bachelor's level is $72; at the master's level, $120; and independent level, $144.

5.19(3) Late fee for failure to renew before expiration is $60.

5.19(4) Reactivation fee for the bachelor's level is $132; for the master's level, $180; and independent level, $204.

5.19(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.19(6) Verification of license fee is $20.

5.19(7) Returned check fee is $25.

5.19(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

645—5.20(147) Speech pathology and audiology license fees. All fees are nonrefundable.

5.20(1) License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is $120.

5.20(2) Biennial license renewal fee for each biennium is $96.

5.20(3) Late fee for failure to renew before expiration is $60.
5.20(4) Reactivation fee is $156.
5.20(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.20(6) Verification of license fee is $20.
5.20(7) Returned check fee is $25.
5.20(8) Disciplinary hearing fee is a maximum of $75.
5.20(9) Temporary clinical license renewal fee is $60.
5.20(10) Temporary permit fee is $30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

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CHAPTER 13
STANDARDS OF PRACTICE AND PRINCIPLES OF MEDICAL ETHICS

[Prior to 5/4/88, see 470—135.251 to 470—135.402]

653—13.1(148,272C) Standards of practice—packaging, labeling and records of prescription drugs dispensed by a physician.

13.1(1) A physician shall dispense a prescription drug only in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471-1476 (2001), unless otherwise requested by the patient, and of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. ss. 301 et seq. (2001).

13.1(2) A label shall be affixed to a container in which a prescription drug is dispensed by a physician which shall include:

1. The name and address of the physician.
2. The name of the patient.
3. The date dispensed.
4. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician.
5. The name and strength of the prescription drug in the container.

13.1(3) The provisions of subrules 13.1(1) and 13.1(2) shall not apply to packaged drug samples.

13.1(4) A physician shall keep a record of all prescription drugs dispensed by the physician to a patient which shall contain the information required by subrule 13.1(2) to be included on the label. Noting such information on the patient's chart or record maintained by the physician is sufficient.

This rule is intended to implement Iowa Code sections 147.55, 148.6, 272C.3 and 272C.4.

653—13.2(148,272C) Standards of practice—appropriate pain management. This rule establishes standards of practice for the management of acute and chronic pain. The board encourages the use of adjunct therapies such as acupuncture, physical therapy and massage in the treatment of acute and chronic pain. This rule focuses on prescribing and administering controlled substances to provide relief and eliminate suffering for patients with acute or chronic pain.

1. This rule is intended to encourage appropriate pain management, including the use of controlled substances for the treatment of pain, while stressing the need to establish safeguards to minimize the potential for substance abuse and drug diversion.
2. The goal of pain management is to treat each patient's pain in relation to the patient's overall health, including physical function and psychological, social and work-related factors. At the end of life, the goals may shift to palliative care.
3. The board recognizes that pain management, including the use of controlled substances, is an important part of general medical practice. Unmanaged or inappropriately treated pain impacts patients' quality of life, reduces patients' ability to be productive members of society, and increases patients' use of health care services.
4. Physicians should not fear board action for treating pain with controlled substances as long as the physicians' prescribing is consistent with appropriate pain management practices. Dosage alone is not the sole measure of determining whether a physician has complied with appropriate pain management practices. The board recognizes the complexity of treating patients with chronic pain or a substance abuse history. Generally, the board is concerned about a pattern of improper pain management or a single occurrence of willful or gross overtreatment or undertreatment of pain.
5. The board recognizes that the undertreatment of pain is a serious public health problem that results in decreases in patients' functional status and quality of life, and that adequate access by patients to proper pain treatment is an important objective of any pain management policy.
6. Inappropriate pain management may include nontreatment, undertreatment, overtreatment, and the continued use of ineffective treatments. Inappropriate pain management is a departure from the acceptable standard of practice in Iowa and may be grounds for disciplinary action.

13.2(1) *Definitions.* For the purposes of this rule, the following terms are defined as follows:

"Acute pain" means the normal, predicted physiological response to a noxious chemical, thermal or mechanical stimulus and typically is associated with invasive procedures, trauma and disease. Generally, acute pain is self-limited, lasting no more than a few weeks following the initial stimulus.

"Addiction" means a primary, chronic, neurobiologic disease, with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include the following: impaired control over drug use, craving, compulsive use, and continued use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and are not the same as addiction.

"Chronic pain" means persistent or episodic pain of a duration or intensity that adversely affects the functioning or well-being of a patient when (1) no relief or cure for the cause of pain is possible; (2) no relief or cure for the cause of pain has been found; or (3) relief or cure for the cause of pain through other medical procedures would adversely affect the well-being of the patient. If pain persists beyond the anticipated healing period of a few weeks, patients should be thoroughly evaluated for the presence of chronic pain.

"Pain" means an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage. Pain is an individual, multifactorial experience influenced by culture, previous pain events, beliefs, mood and ability to cope.

"Physical dependence" means a state of adaptation that is manifested by drug class-specific signs and symptoms that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, or administration of an antagonist. Physical dependence, by itself, does not equate with addiction.

"Pseudoaddiction" means an iatrogenic syndrome resulting from the misinterpretation of relief-seeking behaviors as though they are drug-seeking behaviors that are commonly seen with addiction. The relief-seeking behaviors resolve upon institution of effective analgesic therapy.

"Substance abuse" means the use of a drug, including alcohol, by the patient in an inappropriate manner that may cause harm to the patient or others, or the use of a drug for an indication other than that intended by the prescribing clinician. An abuser may or may not be physically dependent on or addicted to the drug.

"Tolerance" means a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce a specific effect, or a reduced effect is observed with a constant dose over time. Tolerance may or may not be evident during opioid treatment and does not equate with addiction.

"Undertreatment of pain" means the failure to properly assess, treat and manage pain or the failure to appropriately document a sound rationale for not treating pain.

13.2(2) *Laws and regulations governing controlled substances.* Nothing in this rule relieves a physician from fully complying with applicable federal and state laws and regulations governing controlled substances.

13.2(3) *Undertreatment of pain.* The undertreatment of pain is a departure from the acceptable standard of practice in Iowa. Undertreatment may include a failure to recognize symptoms and signs of pain, a failure to treat pain within a reasonable amount of time, a failure to allow interventions, e.g., analgesia, to become effective before invasive steps are taken, a failure to address pain needs in patients with reduced cognitive status, a failure to use controlled substances for terminal pain due to the physician's concern with addicting the patient, or a failure to use an adequate level of pain management.

13.2(4) *Assessment and treatment of acute pain.* Appropriate assessment of the etiology of the pain is essential to the appropriate treatment of acute pain. Acute pain is not a diagnosis; it is a symptom. Prescribing controlled substances for the treatment of acute pain should be based on clearly diagnosed and documented pain. Appropriate management of acute pain should include an assessment of the mechanism, type and intensity of pain. The patient's medical record should clearly document a medical history, a pain history, a clinical examination, a medical diagnosis and a treatment plan.

13.2(5) *Effective management of chronic pain.* Prescribing controlled substances for the treatment of chronic pain should only be accomplished within an established physician-patient relationship and should be based on clearly diagnosed and documented unrelieved pain. To ensure that chronic pain is properly assessed and treated, a physician who prescribes or administers controlled substances to a

patient for the treatment of chronic pain shall exercise sound clinical judgment and establish an effective pain management plan in accordance with the following:

a. Patient evaluation. A patient evaluation that includes a physical examination and a comprehensive medical history shall be conducted prior to the initiation of treatment. The evaluation shall also include an assessment of the pain, physical and psychological function, diagnostic studies, previous interventions, including medication history, substance abuse history and any underlying or coexisting conditions. Consultation/referral to a physician with expertise in pain medicine, addiction medicine or substance abuse counseling or a physician who specializes in the treatment of the area, system, or organ perceived to be the source of the pain may be warranted depending upon the expertise of the physician and the complexity of the presenting patient. Interdisciplinary evaluation is strongly encouraged.

b. Treatment plan. The physician shall establish a comprehensive treatment plan that tailors drug therapy to the individual needs of the patient. To ensure proper evaluation of the success of the treatment, the plan shall clearly state the objectives of the treatment, for example, pain relief or improved physical or psychosocial functioning. The treatment plan shall also indicate if any further diagnostic evaluations or treatments are planned and their purposes. The treatment plan shall also identify any other treatment modalities and rehabilitation programs utilized. The patient's short- and long-term needs for pain relief shall be considered when drug therapy is prescribed. The patient's ability to request pain relief as well as the patient setting shall be considered. For example, nursing home patients are unlikely to have their pain control needs assessed on a regular basis, making prn (on an as-needed basis) drugs less effective than drug therapy prescribed for routine administration that can be supplemented if pain is found to be worse. The patient should receive prescriptions for controlled substances from a single physician and a single pharmacy whenever possible.

c. Informed consent. The physician shall document discussion of the risks and benefits of controlled substances with the patient or person representing the patient.

d. Periodic review. The physician shall periodically review the course of drug treatment of the patient and the etiology of the pain. The physician should adjust drug therapy to the individual needs of each patient. Modification or continuation of drug therapy by the physician shall be dependent upon evaluation of the patient's progress toward the objectives established in the treatment plan. The physician shall consider the appropriateness of continuing drug therapy and the use of other treatment modalities if periodic reviews indicate that the objectives of the treatment plan are not being met or that there is evidence of diversion or a pattern of substance abuse. Long-term opioid treatment is associated with the development of tolerance to its analgesic effects. There is also evidence that opioid treatment may paradoxically induce abnormal pain sensitivity, including hyperalgesia and allodynia. Thus, increasing opioid doses may not improve pain control and function.

e. Consultation/referral. A specialty consultation may be considered at any time if there is evidence of significant adverse effects or lack of response to the medication. Pain, physical medicine, rehabilitation, general surgery, orthopedics, anesthesiology, psychiatry, neurology, rheumatology, oncology, addiction medicine, or other consultation may be appropriate. The physician should also consider consultation with, or referral to, a physician with expertise in addiction medicine or substance abuse counseling, if there is evidence of diversion or a pattern of substance abuse. The board encourages a multidisciplinary approach to chronic pain management, including the use of adjunct therapies such as acupuncture, physical therapy and massage.

f. Documentation. The physician shall keep accurate, timely, and complete records that detail compliance with this subrule, including patient evaluation, diagnostic studies, treatment modalities, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.

g. Pain management agreements. A physician who treats patients for chronic pain with controlled substances shall consider using a pain management agreement with each patient being treated that specifies the rules for medication use and the consequences for misuse. In determining whether to use a pain management agreement, a physician shall evaluate each patient, taking into account the risks to the patient and the potential benefits of long-term treatment with controlled substances. A physician who

prescribes controlled substances to a patient for more than 90 days for treatment of chronic pain shall utilize a pain management agreement if the physician has reason to believe a patient is at risk of drug abuse or diversion. If a physician prescribes controlled substances to a patient for more than 90 days for treatment of chronic pain and chooses not to use a pain management agreement, then the physician shall document in the patient's medical records the reason(s) why a pain management agreement was not used. Use of pain management agreements is not necessary for hospice or nursing home patients. A sample pain management agreement and prescription drug risk assessment tools may be found on the board's Web site at www.medicalboard.iowa.gov.

h. *Substance abuse history or comorbid psychiatric disorder.* A patient's prior history of substance abuse does not necessarily contraindicate appropriate pain management. However, treatment of patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care and communication with the patient, monitoring, documentation, and consultation with or referral to an expert in the management of such patients. The board strongly encourages a multidisciplinary approach for pain management of such patients that incorporates the expertise of other health care professionals.

i. *Drug testing.* A physician who prescribes controlled substances to a patient for more than 90 days for the treatment of chronic pain shall consider utilizing drug testing to ensure that the patient is receiving appropriate therapeutic levels of prescribed medications or if the physician has reason to believe that the patient is at risk of drug abuse or diversion.

j. *Termination of care.* The physician shall consider termination of patient care if there is evidence of noncompliance with the rules for medication use, drug diversion, or a repeated pattern of substance abuse.

13.2(6) *Pain management for terminal illness.* The provisions of this subrule apply to patients who are at the stage in the progression of cancer or other terminal illness when the goal of pain management is comfort care. When the goal of treatment shifts to comfort care rather than cure of the underlying condition, the board recognizes that the dosage level of opiates or controlled substances to control pain may exceed dosages recommended for chronic pain and may come at the expense of patient function. The determination of such pain management should involve the patient, if possible, and others the patient has designated for assisting in end-of-life care.

13.2(7) *Prescription monitoring program.* The Iowa board of pharmacy has established a prescription monitoring program pursuant to Iowa Code sections 124.551 to 124.558 to assist prescribers and pharmacists in monitoring the prescription of controlled substances to patients. The board recommends that physicians utilize the prescription monitoring program when prescribing controlled substances to patients if the physician has reason to believe that a patient is at risk of drug abuse or diversion. A link to the prescription monitoring program may be found at the board's Web site at www.medicalboard.iowa.gov.

13.2(8) *Pain management resources.* The board strongly recommends that physicians consult the following resources regarding the proper treatment of chronic pain. This list is provided for the convenience of licensees, and the publications included are not intended to be incorporated in the rule by reference.

a. American Academy of Hospice and Palliative Medicine or AAHPM is the American Medical Association-recognized specialty society of physicians who practice in hospice and palliative medicine in the United States. The mission of the AAHPM is to enhance the treatment of pain at the end of life.

b. American Academy of Pain Medicine or AAPM is the American Medical Association-recognized specialty society of physicians who practice pain medicine in the United States. The mission of the AAPM is to enhance pain medicine practice by promoting a climate conducive to the effective and efficient practice of pain medicine.

c. American Pain Society or APS is the national chapter of the International Association for the Study of Pain, an organization composed of physicians, nurses, psychologists, scientists and other professionals who have an interest in the study and treatment of pain. The mission of the APS is to serve people in pain by advancing research, education, treatment and professional practice.

d. DEA Policy Statement: Dispensing Controlled Substances for the Treatment of Pain. On August 28, 2006, the Drug Enforcement Agency (DEA) issued a policy statement establishing

guidelines for practitioners who dispense controlled substances for the treatment of pain. This policy statement may be helpful to practitioners who treat pain with controlled substances.

e. Interagency Guideline on Prescribing Opioids for Pain. Developed by the Washington State Agency Medical Directors' Group in collaboration with an expert advisory panel, actively practicing providers and public stakeholders, the guideline focuses on evidence-based treatment for chronic-pain patients. The guideline was published in 2007 and updated in 2015.

f. Responsible Opioid Prescribing: A Physician's Guide. In 2007, in collaboration with author Scott Fishman, M.D., the Federation of State Medical Boards' (FSMB) Research and Education Foundation published a book on responsible opioid prescribing based on the FSMB Model Policy for the Use of Controlled Substances for the Treatment of Pain.

g. World Health Organization: Pain Relief Ladder. Cancer pain relief and palliative care. Technical report series 804. Geneva: World Health Organization.

h. CDC Guideline for Prescribing Opioids for Chronic Pain. On March 15, 2016, the U.S. Centers for Disease Control and Prevention (CDC) issued a guideline to provide recommendations for the prescribing of opioid pain medication for patients 18 years of age and older in primary care settings. Recommendations focus on the use of opioids in treating chronic pain (pain lasting longer than three months or past the time of normal tissue healing) outside of active cancer treatment, palliative care, and end-of-life care.

[**ARC 9599B**, IAB 7/13/11, effective 8/17/11; **ARC 2705C**, IAB 9/14/16, effective 10/19/16]

653—13.3(147) Supervision of pharmacists who administer adult immunizations. Rescinded **ARC 1033C**, IAB 10/2/13, effective 11/6/13.

653—13.4(148) Supervision of pharmacists engaged in collaborative drug therapy management. A supervising physician may only delegate aspects of drug therapy management to an authorized pharmacist pursuant to a written protocol with a pharmacist pursuant to the requirements of this rule. The physician is considered the supervisor and retains the ultimate responsibility for the care of the patient. The authorized pharmacist retains full responsibility for proper execution of pharmacy practice.

13.4(1) *Definitions.*

"Authorized pharmacist" means an Iowa-licensed pharmacist who meets the training requirements of the Iowa board of pharmacy (IBP) as specified in the drug therapy management criteria in 657—8.34(155A).

"Board" means the board of medicine of the state of Iowa.

"Collaborative drug therapy management" means participation by a physician and an authorized pharmacist in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

"Collaborative practice" means that a physician may delegate aspects of drug therapy management for the physician's patients to an authorized pharmacist through a written community practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and the hospital's clinic patients through a hospital practice protocol when the clinic and the pharmacist are under the direct authority of the hospital's P&T committee.

"Community practice protocol" means a written, executed agreement entered into voluntarily between a physician and an authorized pharmacist establishing drug therapy management for one or more of the physician's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 13.4(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home, group home, assisted living facility, correctional facility, hospice, or long-term care facility.

"Hospital clinic" means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between physicians and hospital pharmacists within a hospital and its clinics as developed and determined by its P&T committee. Such a protocol may apply to all physicians and hospital pharmacists at a hospital or the hospital's clinics under the direct authority of the hospital's P&T committee or only to those physicians and pharmacists who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 13.4(3).

"IBP" means the Iowa board of pharmacy.

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and administration in the hospital, and manages the hospital drug formulary system.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery. A physician who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The physician may delegate only drug therapies that are in areas common to the physician's practice.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

13.4(2) *Community practice protocol.*

a. A physician shall engage in collaborative drug therapy management with a pharmacist only under a written protocol that is identified by topic and has been submitted to the IBP or a committee authorized by the IBP. A protocol executed after July 1, 2008, will no longer be required to be submitted to the IBP; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBP.

b. The community practice protocol shall include:

(1) The name, signature, date and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a particular patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal pharmacist shall be designated in the protocol.

(2) The name, signature, date and contact information for each physician who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The physician who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal physician.

(3) The name and contact information of the principal physician and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.

(4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration and route of administration of the drug authorized by the patient's physician. The protocol shall not authorize the pharmacist to change a Schedule II drug or initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the pharmacist to obtain or conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions or determine if the patient should be referred back to the patient's physician for follow-up.

4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

(5) Procedures for the physician to secure the patient's written consent. If the physician does not secure the patient's written consent, the pharmacist shall secure such and notify the patient's physician within 24 hours.

(6) Circumstances that shall cause the pharmacist to initiate communication with the physician, including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.

(7) A detailed statement identifying the specific drugs, laboratory tests and physical findings upon which the pharmacist shall base drug therapy management decisions.

(8) A provision for the collaborative drug therapy protocol to be reviewed, updated and reexecuted or discontinued at least every two years.

(9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the physician.

(10) A description of the types of reports the physician requires the pharmacist to provide and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame in which a pharmacist shall report any adverse reaction to the physician.

(11) A statement of the medication categories and the type of initiation and modification of drug therapy that the physician authorizes the pharmacist to perform.

(12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.

(13) Procedures for record keeping, record sharing and long-term record storage.

(14) Procedures to follow in emergency situations.

(15) A statement that prohibits the pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.

(16) A statement that prohibits a physician from delegating collaborative drug therapy management to any unlicensed or licensed person other than another physician or authorized pharmacist.

(17) A description of the mechanism for the pharmacist and physician to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.

c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least the patient's physician and one authorized pharmacist.

d. A collaborative drug therapy management protocol must be filed with the IBP, kept on file in the pharmacy and made available to the board or IBP upon request. A protocol executed after July 1, 2008, will no longer be required to be submitted to the IBP; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBP.

e. A physician may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the physician notifies, in writing, the pharmacist and the IBP. Notification shall include the name of the authorized pharmacist, the desired change, and the proposed effective date of the change. After July 1, 2008, the physician shall no longer be required to notify the IBP of changes in the protocol.

f. Patient consent for community practice protocols. The physician or pharmacist who initiates a protocol with a patient is responsible for securing a patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours. The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient needs to be communicated to the other party at the time of securing the patient's consent. The patient's physician shall maintain the patient consent in the patient's medical record.

13.4(3) *Hospital practice protocol.*

a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by its hospital pharmacists in the hospital and its clinics. Hospital clinics are restricted to outpatient care clinics operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.

c. The hospital practice protocol shall include:

(1) The names or groups of physicians and pharmacists who are authorized by the P&T committee to participate in collaborative drug therapy management.

(2) A plan for development, training, administration, and quality assurance of the protocol.

(3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration and route of administration of the drug authorized by the physician. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions or determine if the patient should be referred back to the physician for follow-up.

(4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's physician, including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.

(5) A statement of the medication categories and the type of initiation and modification of drug therapy that the protocol authorizes the hospital pharmacist to perform.

(6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.

(7) A description of the mechanism for the hospital pharmacist and the patient's physician to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

This rule is intended to implement Iowa Code chapter 148.

653—13.5(147,148) Standards of practice—chelation therapy. Chelation therapy or disodium ethylene diamine tetra acetic acid (EDTA) may only be used for the treatment of heavy metal poisoning or in the clinical setting when a licensee experienced in clinical investigations conducts a carefully controlled clinical investigation of its effectiveness in treating other diseases or medical conditions under a research protocol that has been approved by an institutional review board of the University of Iowa or Des Moines University—Osteopathic Medical Center.

This rule is intended to implement Iowa Code chapters 147 and 148.

653—13.6(79GA,HF726) Standards of practice—automated dispensing systems. A physician who dispenses prescription drugs via an automated dispensing system or a dispensing system that employs technology may delegate nonjudgmental dispensing functions to staff assistants in the absence of a pharmacist or physician provided that the physician utilizes an internal quality control assurance plan that ensures that the medication dispensed is the medication that was prescribed. The physician shall be physically present to determine the accuracy and completeness of any medication that is reconstituted prior to dispensing.

13.6(1) An internal quality control assurance plan shall include the following elements:

a. The name of the physician responsible for the internal quality assurance plan and testing;

b. Methods that the dispensing system employs, e.g., bar coding, to ensure the accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;

c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;

d. The procedures utilized to ensure that the physician(s) dispensing via the automated system provide(s) patients counseling regarding the prescription drugs being dispensed;

e. Staff training and qualifications for dispensing via the dispensing system;

f. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;

g. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;

h. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;

i. A plan for interval testing of the accuracy of dispensing, at least annually; and

j. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

13.6(2) Those dispensing systems already in place shall show evidence of a plan and testing within two months of August 31, 2001.

13.6(3) The internal quality control assurance plan shall be submitted to the board of medicine upon request.

This rule is intended to implement Iowa Code section 147.107 and 2001 Iowa Acts, House File 726, section 5(10), paragraph *"i."*

653—13.7(147,148,272C) Standards of practice—office practices.

13.7(1) *Termination of the physician-patient relationship.* A physician may choose whom to serve. Having undertaken the care of a patient, the physician may not neglect the patient. A physician shall provide a patient written notice of the termination of the physician-patient relationship. A physician shall ensure that emergency medical care is available to the patient during the 30-day period following notice of the termination of the physician-patient relationship.

13.7(2) *Patient referrals.* A physician shall not pay or receive compensation for patient referrals.

13.7(3) *Confidentiality.* A physician shall maintain the confidentiality of all patient information obtained in the practice of medicine. Information shall be divulged by the physician when authorized by law or the patient or when required for patient care.

13.7(4) *Sexual conduct.* It is unprofessional and unethical conduct, and is grounds for disciplinary action, for a physician to engage in conduct which violates the following prohibitions:

a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient, or with the patient's parent or guardian if the patient is a minor.

b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor, regardless of whether the patient consents to that conduct.

13.7(5) *Disruptive behavior.* A physician shall not engage in disruptive behavior. Disruptive behavior is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff.

13.7(6) *Sexual harassment.* A physician shall not engage in sexual harassment. Sexual harassment is defined as verbal or physical conduct of a sexual nature which interferes with another health care worker's performance or creates an intimidating, hostile or offensive work environment.

13.7(7) *Transfer of medical records.* A physician must provide a copy of all medical records generated by the physician in a timely manner to the patient or another physician designated by the patient, upon written request when legally requested to do so by the subject patient or by a legally designated representative of the subject patient, except as otherwise required or permitted by law.

13.7(8) *Retention of medical records.* The following paragraphs become effective on January 1, 2004.

a. A physician shall retain all medical records, not appropriately transferred to another physician or entity, for at least seven years from the last date of service for each patient, except as otherwise required by law.

b. A physician must retain all medical records of minor patients, not appropriately transferred to another physician or entity, for a period consistent with that established by Iowa Code section 614.8.

c. Upon a physician's death or retirement, the sale of a medical practice or a physician's departure from the physician's medical practice:

(1) The physician or the physician's representative must ensure that all medical records are transferred to another physician or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The physician shall notify all active patients that their records will be transferred to another physician or entity that will retain custody of their records and that, at their written request, the records will be sent to the physician or entity of the patient's choice.

653—13.8(148,272C) Standards of practice—medical directors at medical spas—delegation and supervision of medical aesthetic services performed by qualified licensed or certified nonphysician persons. This rule establishes standards of practice for a physician or surgeon or osteopathic physician or surgeon who serves as a medical director at a medical spa.

13.8(1) *Definitions.* As used in this rule:

"Alter" means to change the cellular structure of living tissue.

"Capable of" means any means, method, device or instrument which, if used as intended or otherwise to its greatest strength, has the potential to alter or damage living tissue below the superficial epidermal cells.

"Damage" means to cause a harmful change in the cellular structure of living tissue.

"Delegate" means to entrust or transfer the performance of a medical aesthetic service to qualified licensed or certified nonphysician persons.

"Medical aesthetic service" means the diagnosis, treatment, or correction of human conditions, ailments, diseases, injuries, or infirmities of the skin, hair, nails and mucous membranes by any means, methods, devices, or instruments including the use of a biological or synthetic material, chemical application, mechanical device, or displaced energy form of any kind if it alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells, with the exception of hair removal. Medical aesthetic service includes, but is not limited to, the following services: ablative laser therapy; vaporizing laser therapy; nonsuperficial light device therapy; injectables; tissue alteration services; nonsuperficial light-emitting diode therapy; nonsuperficial intense pulse light therapy; nonsuperficial radiofrequency therapy; nonsuperficial ultrasonic therapy; nonsuperficial exfoliation; nonsuperficial microdermabrasion; nonsuperficial dermaplane exfoliation; nonsuperficial lymphatic drainage; botox injections; collagen injections; and tattoo removal.

"Medical director" means a physician who assumes the role of, or holds oneself out as, medical director or a physician who serves as a medical advisor for a medical spa. The medical director is responsible for implementing policies and procedures to ensure quality patient care and for the delegation and supervision of medical aesthetic services to qualified licensed or certified nonphysician persons.

"Medical spa" means any entity, however organized, which is advertised, announced, established, or maintained for the purpose of providing medical aesthetic services. Medical spa shall not include a dermatology practice which is wholly owned and controlled by one or more Iowa-licensed physicians if at least one of the owners is actively practicing at each location.

"Nonsuperficial" means that the therapy alters or damages or is capable of altering or damaging living tissue below the superficial epidermal cells.

"Qualified licensed or certified nonphysician person" means any person who is not licensed to practice medicine and surgery or osteopathic medicine and surgery but who is licensed or certified by another licensing board in Iowa and qualified to perform medical aesthetic services under the supervision of a qualified physician.

"Supervision" means the oversight of qualified licensed or certified nonphysician persons who perform medical aesthetic services delegated by a medical director.

13.8(2) *Practice of medicine.* The performance of medical aesthetic services is the practice of medicine. A medical aesthetic service shall only be performed by qualified licensed or certified nonphysician persons if the service has been delegated by the medical director who is responsible for supervision of the services performed. A medical director shall not delegate medical aesthetic services to nonphysician persons who are not appropriately licensed or certified in Iowa.

13.8(3) *Medical director.* A physician who serves as medical director at a medical spa shall:

a. Hold an active unrestricted Iowa medical license to supervise each delegated medical aesthetic service;

b. Possess the appropriate education, training, experience and competence to safely supervise each delegated medical aesthetic service;

c. Retain responsibility for the supervision of each medical aesthetic service performed by qualified licensed or certified nonphysician persons;

d. Ensure that advertising activities do not include false, misleading, or deceptive representations; and

e. Be clearly identified as the medical director in all advertising activities, Internet Web sites and signage related to the medical spa.

13.8(4) *Delegated medical aesthetic service.* When a medical director delegates a medical aesthetic service to qualified licensed or certified nonphysician persons, the service shall be:

a. Within the medical director's scope of practice and medical competence to supervise;

b. Of the type that a reasonable and prudent physician would conclude is within the scope of sound medical judgment to delegate; and

c. A routine and technical service, the performance of which does not require the skill of a licensed physician.

13.8(5) *Supervision.* A medical director who delegates performance of a medical aesthetic service to qualified licensed or certified nonphysician persons is responsible for providing appropriate supervision. The medical director shall:

a. Ensure that all licensed or certified nonphysician persons are qualified and competent to safely perform each medical aesthetic service by personally assessing the person's education, training, experience and ability;

b. Ensure that a qualified licensed or certified nonphysician person does not perform any medical aesthetic services which are beyond the scope of that person's license or certification unless the person is supervised by a qualified supervising physician;

c. Ensure that all qualified licensed or certified nonphysician persons receive direct, in-person, on-site supervision from the medical director or other qualified licensed physician at least four hours each week and that the regular supervision is documented;

d. Provide on-site review of medical aesthetic services performed by qualified licensed or certified nonphysician persons each week and review at least 10 percent of patient charts for medical aesthetic services performed by qualified licensed or certified nonphysician persons;

e. Be physically located, at all times, within 60 miles of the location where qualified licensed or certified nonphysician persons perform medical aesthetic services;

f. Be available, in person or electronically, at all times, to consult with qualified licensed or certified nonphysician persons who perform medical aesthetic services, particularly in case of injury or an emergency;

g. Assess the legitimacy and safety of all equipment or other technologies being used by qualified licensed or certified nonphysician persons who perform medical aesthetic services;

h. Develop and implement protocols for responding to emergencies or other injuries suffered by persons receiving medical aesthetic services performed by qualified licensed or certified nonphysician persons;

i. Ensure that all qualified licensed or certified nonphysician persons maintain accurate and timely medical records for the medical aesthetic services they perform;

j. Ensure that each patient provides appropriate informed consent for medical aesthetic services performed by the medical director or other qualified licensed physician and all qualified licensed or certified nonphysician persons and that such informed consent is timely documented in the patient's medical record;

k. Ensure that the identity and licensure and certification of the medical director, other qualified licensed physicians and all licensed or certified nonphysician persons are visibly displayed at each medical spa and provided in writing to each patient receiving medical aesthetic services at a medical spa; and

l. Ensure that the board receives written verification of the education and training of all qualified licensed or certified nonphysician persons who perform medical aesthetic services at a medical spa, within 14 days of a request by the board.

13.8(6) *Exceptions.* This rule is not intended to apply to physicians who serve as medical directors of licensed medical facilities, clinics or practices that provide medical aesthetic services as part of or incident to their other medical services.

13.8(7) *Physician assistants.* Nothing in these rules shall be interpreted to contradict or supersede the rules established in 645—Chapters 326 and 327.

[**ARC 9088B**, IAB 9/22/10, effective 10/27/10]

653—13.9(147,148,272C) Standards of practice—interventional chronic pain management. This rule establishes standards of practice for the practice of interventional chronic pain management. The purpose of this rule is to assist physicians who consider interventional techniques to treat patients with chronic pain.

13.9(1) *Definition.* As used in this rule:

"Interventional chronic pain management" means the diagnosis and treatment of pain-related disorders with the application of interventional techniques in managing subacute, chronic, persistent, and intractable pain. Interventional techniques include percutaneous (through the skin) needle placement to inject drugs in targeted areas. Interventional techniques also include nerve ablation (excision or amputation) and certain surgical procedures. Interventional techniques often involve injection of steroids, analgesics, and anesthetics and include: lumbar, thoracic, and cervical spine injections, intra-articular injections, intrathecal injections, epidural injections (both regular and transforaminal), facet injections, discography, nerve destruction, occipital nerve blocks, lumbar sympathetic blocks and vertebroplasty, and kyphoplasty. Interventional chronic pain management includes the use of fluoroscopy when it is used to assess the cause of a patient's chronic pain or when it is used to identify anatomic landmarks during interventional techniques. Specific interventional techniques include: SI joint injections; spinal punctures; epidural blood patches; epidural injections; epidural/spinal injections; lumbar injections; epidural/subarachnoid catheters; occipital nerve blocks; axillary nerve blocks; intercostals nerve blocks; multiple intercostals nerve blocks; ilioinguinal nerve blocks; peripheral nerve blocks; facet joint injections; cervical/thoracic facet joint injections; lumbar facet injections; multiple lumbar facet injections; transforaminal epidural steroid injections; transforaminal cervical steroid injections; sphenopalatine ganglion blocks; paravertebral sympathetic blocks; neurolysis of the lumbar facet nerve; neurolysis of the cervical facet nerve; and destruction of the peripheral nerve.

13.9(2) *Interventional chronic pain management.* The practice of interventional chronic pain management shall include the following:

a. Comprehensive assessment of the patient;

b. Diagnosis of the cause of the patient's pain;

c. Evaluation of alternative treatment options;
d. Selection of appropriate treatment options;
e. Termination of prescribed treatment options when appropriate;
f. Follow-up care; and
g. Collaboration with other health care providers.

13.9(3) *Practice of medicine.* Interventional chronic pain management is the practice of medicine.
[**ARC 8918B**, IAB 6/30/10, effective 8/4/10]

653—13.10(147,148,272C) Standards of practice—physicians who prescribe or administer abortion-inducing drugs.

13.10(1) *Definition.* As used in this rule:

"Abortion-inducing drug" means a drug, medicine, mixture, or preparation, when it is prescribed or administered with the intent to terminate the pregnancy of a woman known to be pregnant.

13.10(2) *Physical examination required.* A physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first performed a physical examination of the woman to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy.

13.10(3) *Physician's physical presence required.* When inducing an abortion by providing an abortion-inducing drug, a physician must be physically present with the woman at the time the abortion-inducing drug is provided.

13.10(4) *Follow-up appointment required.* If an abortion is induced by an abortion-inducing drug, the physician inducing the abortion must schedule a follow-up appointment with the woman at the same facility where the abortion-inducing drug was provided, 12 to 18 days after the woman's use of an abortion-inducing drug to confirm the termination of the pregnancy and evaluate the woman's medical condition. The physician shall use all reasonable efforts to ensure that the woman is aware of the follow-up appointment and that she returns for the appointment.

13.10(5) *Parental notification regarding pregnant minors.* A physician shall not induce an abortion by providing an abortion-inducing drug to a pregnant minor prior to compliance with the requirements of Iowa Code chapter 135L and rules 641—89.12(135L) and 641—89.21(135L) adopted by the public health department.
[**ARC 1034C**, IAB 10/2/13, effective 11/6/13]

653—13.11(147,148,272C) Standards of practice—telemedicine. This rule establishes standards of practice for the practice of medicine using telemedicine.

1. The board recognizes that technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.
2. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.
3. The board advises that licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.
4. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

13.11(1) *Definitions.* As used in this rule:

"Asynchronous store-and-forward transmission" means the collection of a patient's relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

"Board" means the Iowa board of medicine.

"In-person encounter" means that the physician and the patient are in the physical presence of each other and are in the same physical location during the physician-patient encounter.

"Licensee" means a medical physician or osteopathic physician licensed by the board.

"Telemedicine" means the practice of medicine using electronic audio-visual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine shall not include the provision of medical services only through an audio-only telephone, e-mail messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

"Telemedicine technologies" means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

13.11(2) *Practice guidelines.* A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

13.11(3) *Iowa medical license required.* A physician who uses telemedicine in the diagnosis and treatment of a patient located in Iowa shall hold an active Iowa medical license consistent with state and federal laws. Nothing in this rule shall be construed to supersede the exceptions to licensure contained in 653—subrule 9.2(2).

13.11(4) *Standards of care and professional ethics.* A licensee who uses telemedicine shall be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

13.11(5) *Scope of practice.* A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, ability, licensure, and certification.

13.11(6) *Identification of patient and physician.* A licensee who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

13.11(7) *Physician-patient relationship.*

a. A licensee who uses telemedicine shall establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:

(1) The person with a health-related matter seeks assistance from a licensee;

(2) The licensee agrees to undertake diagnosis and treatment of the person; and

(3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician and the person.

b. A valid physician-patient relationship may be established by:

(1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;

(2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or

(3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

13.11(8) *Medical history and physical examination.* Generally, a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in-person if the technology utilized in a telemedicine

encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in-person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

13.11(9) *Nonphysician health care providers.* If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a nonphysician health care provider, the licensee shall:

a. Ensure that systems are in place to ensure that the nonphysician health care provider is qualified and trained to provide that service within the scope of the nonphysician health care provider's practice;

b. Ensure that the licensee is available in person or electronically to consult with the nonphysician health care provider, particularly in the case of injury or an emergency.

13.11(10) *Informed consent.* A licensee who uses telemedicine shall ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

13.11(11) *Coordination of care.* A licensee who uses telemedicine shall, when medically appropriate, identify the medical home or treating physician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical record to the patient's medical home or treating physician(s).

13.11(12) *Follow-up care.* A licensee who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

13.11(13) *Emergency services.* A licensee who uses telemedicine shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

13.11(14) *Medical records.* A licensee who uses telemedicine shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

13.11(15) *Privacy and security.* A licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act to ensure that all patient communications and records are secure and remain confidential.

a. Written protocols shall be established that address the following:

(1) Privacy;

(2) Health care personnel who will process messages;

(3) Hours of operation;

(4) Types of transactions that will be permitted electronically;

(5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;

(6) Archiving and retrieval; and

(7) Quality oversight mechanisms.

b. The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

13.11(16) *Technology and equipment.* The board recognizes that three broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

a. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;

b. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and

c. The technology and equipment utilized in the provision of telemedicine services must be compliant with the Health Insurance Portability and Accountability Act.

13.11(17) *Disclosure and functionality of telemedicine services.* A licensee who uses telemedicine shall ensure that the following information is clearly disclosed to the patient:

a. Types of services provided;

b. Contact information for the licensee;

c. Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;

d. Limitations in the drugs and services that can be provided via telemedicine;

e. Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;

f. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);

g. Appropriate uses and limitations of the technologies, including in emergency situations;

h. Uses of and response times for e-mails, electronic messages and other communications transmitted via telemedicine technologies;

i. To whom patient health information may be disclosed and for what purpose;

j. Rights of patients with respect to patient health information; and

k. Information collected and passive tracking mechanisms utilized.

13.11(18) *Patient access and feedback.* A licensee who uses telemedicine shall ensure that the patient has easy access to a mechanism for the following purposes:

a. To access, supplement and amend patient-provided personal health information;

b. To provide feedback regarding the quality of the telemedicine services provided; and

c. To register complaints. The mechanism shall include information regarding the filing of complaints with the board.

13.11(19) *Financial interests.* Advertising or promotion of goods or products from which the licensee(s) receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee(s) should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

13.11(20) *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.* Under the following circumstances, whether or not such circumstances

involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;

b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;

c. Call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

d. Cross-coverage situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

e. Situations in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship;

f. Emergency situations in which the life or health of the patient is in imminent danger;

g. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

h. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and

i. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities and hospice settings.

13.11(21) *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.* Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 13.11(20).

13.11(22) *Medical abortion.* Nothing in this rule shall be interpreted to contradict or supersede the requirements established in rule 653—13.10(147,148,272C).

This rule is intended to implement Iowa Code chapters 147, 148 and 272C.

[**ARC 1983C**, IAB 4/29/15, effective 6/3/15]

653—13.12(135,147,148,272C,280) Standards of practice—prescribing epinephrine auto-injectors in the name of an authorized facility.

13.12(1) Definitions. For purposes of this rule:

"Authorized facility" means any nonpublic school which is accredited pursuant to Iowa Code section 256.11, any school directly supported in whole or in part by taxation, a food establishment as defined in Iowa Code section 137F.1, a carnival as defined in Iowa Code section 88A.1, a recreational camp, a youth sports facility, or a sports area.

"Epinephrine auto-injector" means a device for immediate self-administration or administration by another trained person of a measured dose of epinephrine to a person at risk of anaphylaxis.

"Physician" means a person licensed pursuant to Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery.

13.12(2) Notwithstanding any other provision of law to the contrary, a physician may prescribe epinephrine auto-injectors in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 280.16 and 280.16A.

13.12(3) A physician who prescribes epinephrine auto-injectors in the name of an authorized facility to be maintained for use pursuant to Iowa Code sections 135.185, 280.16 and 280.16A, provided the

physician has acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector.
[**ARC 2387C**, IAB 2/3/16, effective 3/9/16]

653—13.13 to **13.19** Reserved.

653—13.20(147,148) Principles of medical ethics. The Code of Medical Ethics (2002-2003) prepared and approved by the American Medical Association and the Code of Ethics (2002-2003) prepared and approved by the American Osteopathic Association shall be utilized by the board as guiding principles in the practice of medicine and surgery and osteopathic medicine and surgery in this state.

13.20(1) *Conflict of interest.* A physician should not provide medical services under terms or conditions which tend to interfere with or impair the free and complete exercise of the physician's medical judgment and skill or tend to cause a deterioration of the quality of medical care.

13.20(2) *Fees.* Any fee charged by a physician shall be reasonable.

653—13.21(17A,147,148,272C) Waiver or variance prohibited. Rules in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

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CHAPTER 25
CONTESTED CASE PROCEEDINGS

[Prior to 7/19/06, see 653—Chapter 12]

653—25.1(17A) Definitions. Except where otherwise specifically defined by law:

"Appear personally" means the ability to participate at a hearing or a prehearing conference through teleconference or videoconference or to be physically present.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Party" means the state of Iowa or the respondent.

"Presiding officer" means the board of medicine or a panel of the board. In a disciplinary contested case proceeding, the board may request that an administrative law judge make initial rulings on prehearing matters, and assist and advise the board in presiding at the disciplinary contested case hearing.

"Proposed decision" means a hearing panel's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

"Quorum of the board" means a majority of the members of the board. Official action, including filing of formal charges or imposition of discipline, requires a majority vote of the members present.

653—25.2(17A) Scope and applicability. These rules apply to contested case proceedings conducted by the board of medicine.

653—25.3(17A) Combined statement of charges and settlement agreement. Upon a determination by the board that probable cause exists to take formal disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement.

25.3(1) *Board discretion.* The board has the sole discretion to determine whether to offer a licensee a combined statement of charges and settlement agreement.

25.3(2) *Voluntary agreement.* Entering into a combined statement of charges and settlement agreement is completely voluntary.

25.3(3) *Contents.* The combined statement of charges and settlement agreement shall include a brief statement of the charges, the circumstances that led to the charges and the terms of settlement.

25.3(4) *Resolution of the contested case.* A combined statement of charges and settlement agreement shall constitute the resolution of a contested case proceeding.

25.3(5) *Open record.* A combined statement of charges and settlement agreement is an open record.

653—25.4(17A) Statement of charges.

25.4(1) *Probable cause.* In the event that the board finds there is probable cause for taking disciplinary action against a licensee, the board shall order that a contested case hearing be commenced by the filing of a statement of charges.

25.4(2) *Legal review.* Every statement of charges prepared by the board shall be reviewed by the office of the attorney general before it is filed.

25.4(3) *Time requirements.*

a. Time shall be computed as provided in Iowa Code section 4.1(34).

b. For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

25.4(4) *Delivery.* Delivery of the statement of charges constitutes the commencement of the contested case proceeding. Delivery may be executed by:

a. Personal service as provided in the Iowa Rules of Civil Procedure; or

b. Restricted certified mail, return receipt requested; or

c. Publication, as provided in the Iowa Rules of Civil Procedure.

25.4(5) *Contents.* The statement of charges shall contain the following information:

a. A statement by the board showing that there is probable cause to file the statement of charges;

b. A statement of the time, place, and nature of the hearing;

c. A statement of the legal authority and jurisdiction under which the hearing is to be held;

d. A reference to the particular sections of the statutes and rules involved;

e. A short and plain statement of the matters asserted. This statement shall contain sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

f. A statement that the party may be represented by legal counsel at the party's own expense;

g. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties' counsel where known;

h. Reference to the procedural rules governing conduct of the contested case proceeding;

i. Reference to the procedural rules governing informal settlement;

j. Identification of the board as the presiding officer;

k. A statement requiring the respondent to submit an answer pursuant to subrule 25.10(2) within 20 days after receipt of the statement of charges; and

l. When applicable, notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11(1)*"a"* and rule 653—25.7(17A), that the presiding officer be an administrative law judge.

653—25.5(17A) Legal representation. Following the filing of the statement of charges, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board.

653—25.6(17A) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case shall be the board or a panel of the board. The board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 653—25.23(l7A). In addition, an administrative law judge may assist and advise the board presiding at the contested case hearing.

653—25.7(17A) Presiding officer in a nondisciplinary contested case.

25.7(1) A "nondisciplinary contested case" includes license denial proceedings. Any party in a nondisciplinary contested case, including an appeal of a denial of licensure, who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a statement of charges which identifies or describes the presiding officer as the board.

25.7(2) The board may deny the request only upon a finding that one or more of the following apply:

a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

b. An administrative law judge with the qualifications identified in subrule 25.7(4) is unavailable to hear the case within a reasonable time.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

25.7(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability

of an administrative law judge with the qualifications identified in subrule 25.7(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

25.7(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a juris doctorate degree.

25.7(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling but no later than the time for compliance with the order or the date of hearing, whichever is first.

25.7(6) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon intra-agency appeal, the board shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

653—25.8(17A) Disqualification.

25.8(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party.

b. Has personally investigated, prosecuted, or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties. If the licensee elects to appear before the board in the investigative process pursuant to 653—paragraph 24.2(5)*"d,"* the licensee waives this provision.

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties.

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years.

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case.

f. Has a spouse or relative within the third degree of relationship who:

(1) Is a party to the case, or an officer, director or trustee of a party;

(2) Is a lawyer in the case;

(3) Is known to have an interest that could be substantially affected by the outcome of the case; or

(4) Is likely to be a material witness in the case.

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

25.8(2) 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:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information which is relayed to assigned investigators;

c. Review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrules 25.8(3) and 25.21(8).

By electing to participate in an appearance before the board pursuant to 653—paragraph 24.2(5)*"d,"* the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that the board member "personally investigated" the matter under this provision.

25.8(3) In a situation where a presiding officer or other person 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.

25.8(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 25.8(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in the case.

653—25.9(17A) Consolidation—severance.

25.9(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

25.9(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

653—25.10(17A) Pleadings.

25.10(1) Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

25.10(2) Answer or appearance. An answer or appearance may be filed by the respondent within 20 days of service of the statement of charges. The answer or appearance shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any. If the attorney is not licensed to practice law in Iowa, the attorney must fully comply with Iowa Court Rule 31.14.

25.10(3) Amendment. Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

653—25.11(17A) Service and filing.

25.11(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

25.11(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

25.11(3) *Filing—when required.* After the statement of charges, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

25.11(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

25.11(5) *Proof of mailing.* Proof of mailing includes either:

a. A legible United States Postal Service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. 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 Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, 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 or state interoffice mail).

(Date) (Signature)

653—25.12(17A) Discovery.

25.12(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

25.12(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 25.12(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

653—25.13(17A,272C) Subpoenas in a contested case.

25.13(1) Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearing and may compel the production of books, papers, records, or other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing or may be issued separately. Subpoenas shall be issued by the executive director or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 653—paragraph 24.2(6)*"d"* have been satisfied prior to the issuance of the subpoena.

25.13(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes:

a. The name, address and telephone number of the person requesting the subpoena;

b. The name and address of the person to whom the subpoena shall be directed;

c. The date, time, and location at which the person shall be commanded to attend and give testimony;

d. Whether the testimony is requested in connection with a deposition or hearing;

e. A description of the books, papers, records or other real evidence requested;

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 653—paragraph 24.2(6)*"d"* have been satisfied.

25.13(3) Each subpoena shall contain, as applicable:

a. The caption of the case;

b. The name, address and telephone number of the person who requested the subpoena;

c. The name and address of the person to whom the subpoena is directed;

d. The date, time, and location at which the person is commanded to appear;

e. Whether the testimony is commanded in connection with a deposition or hearing;

f. A description of the books, papers, records or other real evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;

h. The time within which a motion to quash or modify the subpoena must be filed;

i. The signature, address and telephone number of the board administrator or designee;

j. The date of issuance; and

k. A return of service attached to the subpoena.

25.13(4) Unless a subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes, the executive director or designee shall mail the subpoena to the requesting party,

with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

25.13(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case, who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

25.13(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct the hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

25.13(7) A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

25.13(8) If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

653—25.14(17A) Motions.

25.14(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

25.14(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

25.14(3) The presiding officer may schedule oral argument on any motion.

25.14(4) Motions pertaining to the hearing must be filed and served at least ten 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 rule of the board or an order of the presiding officer.

653—25.15(17A) Prehearing conferences.

25.15(1) Any party may request a prehearing conference. Prehearing conferences shall be conducted by the executive director or designee, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive director's own motion shall be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date.

25.15(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the executive director or administrative law judge may issue appropriate orders concerning:

a. The possibility of settlement.

b. The entry of a scheduling order to include deadlines for completion of discovery.

c. Stipulations of law or fact.

d. Stipulations on the admissibility of exhibits.

e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Other than rebuttal exhibits, exhibits that are not listed on the final exhibit list

may be excluded from admission into evidence unless there was good cause for the failure to include them.

g. Stipulations for waiver of any provision of law.

h. Identification of matters which the parties intend to request be officially noticed.

i. Consideration of any additional matters which will expedite the hearing.

25.15(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

653—25.16(17A) Continuances. Unless otherwise provided, applications for continuances shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the executive director or designee shall issue the appropriate order. If the application for continuance is contested, the matter shall be heard by the board as presiding officer or may be delegated by the board to an administrative law judge. No continuance shall be granted within seven days of the date of hearing except for extraordinary, extenuating or emergency circumstances.

25.16(1) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request for continuance; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the board or the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within two days after the oral request unless that requirement is waived by the board or the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

25.16(2) The board or presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal settlement;

e. The existence of an emergency;

f. Any objection;

g. Any applicable time requirements;

h. The existence of a conflict in the schedules of counsel, parties, or witnesses;

i. The timeliness of the request; and

j. Other relevant factors.

653—25.17(272C) Settlement agreements.

25.17(1) A contested case may be resolved by settlement agreement. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The executive director, director of legal affairs, or prosecuting attorney shall have authority to negotiate on behalf of the board.

25.17(2) The full board shall not be involved in negotiations until a written proposed settlement is submitted to the full board for approval, unless both parties waive this prohibition.

25.17(3) Consent to negotiation by the respondent during settlement negotiation constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee.

25.17(4) Settlement negotiations shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

25.17(5) A settlement agreement is an open record.

653—25.18(17A) Hearing procedures.

25.18(1) Hearings are conducted before a quorum of the board. When a sufficient number of board members are unavailable to hear a contested case, the executive director, or the executive director's designee, may request alternate members, as defined in rule 653—1.1(17A,147) and Iowa Code sections 148.2A and 148.7(4), to serve on the hearing panel. A hearing panel must include at least six members, at least half of whom must be current board members, and at least half of whom must be licensed to practice medicine under Iowa Code chapter 148.

25.18(2) When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

25.18(3) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

25.18(4) All objections shall be timely made and stated on the record.

25.18(5) Parties have the right to appear personally and to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

25.18(6) 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. Subject to terms and conditions prescribed by the presiding officer, parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

25.18(7) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

25.18(8) Witnesses may be sequestered during the hearing.

25.18(9) The presiding officer shall have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

25.18(10) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings.

b. The parties shall be given an opportunity to present opening statements.

c. The parties shall present their cases in the sequence determined by the presiding officer.

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law.

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

25.18(11) The board members and administrative law judge have the right to question a witness. Examination of witnesses by board members is subject to properly raised objections.

25.18(12) The hearing shall be open to the public unless the licensee requests that the hearing be closed. At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents which are privileged or confidential by law.

[**ARC 9952B**, IAB 1/11/12, effective 2/15/12; **ARC 2706C**, IAB 9/14/16, effective 10/19/16]

653—25.19(17A) Evidence.

25.19(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

25.19(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

25.19(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice 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. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

25.19(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

25.19(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it 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.

25.19(6) 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.

653—25.20(17A) Default.

25.20(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

25.20(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

25.20(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 25.24(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

25.20(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

25.20(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

25.20(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

25.20(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 653—25.23(17A).

25.20(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another statement of charges and the contested case shall proceed accordingly.

25.20(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 653—25.27(17A).

653—25.21(17A) Ex parte communication.

25.21(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 25.8(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

25.21(2) Prohibitions on ex parte communications commence with the issuance of the statement of charges in a contested case and continue for as long as the case is pending before the board.

25.21(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

25.21(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 653—25.11(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

25.21(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate to the extent necessary to carry out their function as presiding officer.

25.21(6) The executive director or director of legal affairs may be present during deliberations as long as that person is not disqualified from participating under rule 653—25.8(17A). The executive director or director of legal affairs shall not attempt to influence the board's decision in the proceeding.

25.21(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 653—25.16(17A).

25.21(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the contested case process must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

b. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

25.21(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual

information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

25.21(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel shall be reported to the board and its executive director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

653—25.22(17A) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

653—25.23(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive director, administrative law judge, or hearing panel. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to do so, the board shall consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

653—25.24(17A) Decisions.

25.24(1) *Final decisions.*

a. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members of the board shall constitute a quorum. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with subrule 25.11(2).

b. A decision of a hearing panel containing alternate members is considered a final decision of the board, in accordance with Iowa Code section 148.2A.

25.24(2) *Proposed panel decisions.*

a. *Panel of specialists.* When a panel of three specialists presides over the hearing, the panel shall issue a proposed panel decision which shall include findings of fact but shall not include conclusions of law. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued.

b. *Panel of board members.* When a panel of three or more board members presides over the hearing, the panel shall issue a proposed panel decision which shall include proposed findings of fact, conclusions of law, and order. A proposed panel decision shall be reviewed by the board within 30 days of the date the proposed panel decision was issued. A proposed panel decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 25.24(2)*"c."*

c. *Appeal of proposed panel decisions.* A proposed panel decision pursuant to paragraph 25.24(2)*"a"* or *"b"* may be appealed to the full board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party.

(1) Following receipt of a notice of appeal, the board shall enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail.

(2) Oral argument shall be heard by the board unless waived by both parties. The time granted each party for oral argument shall be established by the board.

(3) The record on appeal shall be the entire record made before the hearing panel or administrative law judge.

d. *Confidentiality.* At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

e. *Requests to present additional evidence.* A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

(1) The evidence is material; and

(2) The evidence arose after the completion of the original hearing; or

(3) Good cause exists for failure to present the evidence at the original hearing; and

(4) The party has not waived the right to present additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

653—25.25(272C) Disciplinary sanctions.

25.25(1) If the board concludes following a contested case hearing that discipline is warranted, the board has authority to impose any of the following disciplinary sanctions:

a. Revocation.

b. Suspension.

c. Restriction.

d. Probation.

e. Additional education or training.

f. Reexamination.

g. Physical or mental evaluation or substance abuse evaluation, or alcohol or drug screening or clinical competency evaluation.

h. Civil penalties not to exceed $10,000.

i. Citation and warning.

j. Imposition of such other sanctions allowed by law as may be appropriate.

25.25(2) At the discretion of the board, the following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

a. The relative seriousness of the violation.

b. The facts of the particular violation.

c. Any extenuating circumstances or other countervailing considerations.

d. Number of prior complaints, informal letters or disciplinary charges.

e. Seriousness of prior complaints, informal letters or disciplinary charges.

f. Whether the licensee has taken remedial action.

g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

653—25.26(17A) Application for rehearing.

25.26(1) *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order.

25.26(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in paragraph 25.24(2)*"e"* and subrule 25.26(5), the applicant requests an opportunity to submit additional evidence.

25.26(3) *Filing deadline.* The application shall be filed with the board within 20 days after issuance of the final decision.

25.26(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

25.26(5) *Additional evidence.* A request that additional evidence be considered on rehearing shall be governed by paragraph 25.24(2)*"e."*

25.26(6) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

25.26(7) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

653—25.27(17A) Stays of agency actions.

25.27(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

25.27(2) *When granted.* In determining whether to grant a stay, the board shall consider the factors listed in Iowa Code section 17A.19(5)*"c."* The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

653—25.28(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

653—25.29(17A) Emergency adjudicative proceedings.

25.29(1) *Emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

25.29(2) *Issuance of order.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the board's decision to take immediate action. The order is an open record.

b. The written emergency adjudicative order shall be immediately delivered to the person who is required to comply with the order, by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency; or

(4) Fax, which may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

25.29(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board shall make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

25.29(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for hearing. The licensee subject to the emergency adjudicative order may request a continuance of the hearing at any time upon written application to the board. The board will be granted a continuance only in compelling circumstances upon written application.

653—25.30(17A) Appeal of license denial. An applicant may appeal a preliminary notice of denial of license by filing a written notice of appeal and request for hearing with the board within 30 days of the date that the preliminary notice of denial of license was mailed by the board. The hearing shall be a contested case and shall be conducted in accordance with this chapter.

653—25.31(17A) Judicial review and appeal. Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of the board's order.

653—25.32(17A) Open record. The final decision of the board is an open record. The board shall report final decisions to the appropriate organizations, including but not limited to the National Practitioner Data Bank, the Federation of State Medical Boards and all media and other organizations that have filed a request for public information.

653—25.33(272C) Disciplinary hearings—fees and costs.

25.33(1) *Definitions.* As used in this rule in relation to a formal disciplinary action filed by the board against a licensee:

"Deposition" means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

"Evaluation fees" means actual costs incurred by the board in a physical, mental, chemical abuse, other impairment-related examination or evaluation or clinical competency evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

"Expenses" means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

"Transcript" means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

"Witness fees" means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purpose of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

25.33(2) *Disciplinary hearing fee.* The board may charge a fee not to exceed $75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board.

An order assessing a fee shall be included as part of the board's final decision. The order shall direct the licensee to deliver payment directly to the board as provided in subrule 25.33(6).

25.33(3) *Recovery of related hearing costs.* The board may also recover from the licensee the costs for transcripts, witness fees and expenses, depositions, and medical examination fees. The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may recover the costs for the court reporter and assess the transcript costs against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board which occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the agency appeal process.

b. Witness fees and expenses. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a licensee the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines in effect on January 1, 2005.

c. Deposition costs. Deposition costs for purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition which are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition cost includes a reasonable fee for an expert witness. This fee shall not exceed the expert's customary hourly or daily fee, and shall include the time reasonably and necessarily spent in connection with such deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for that deposition.

d. Medical examination fees. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

25.33(4) *Certification of reimbursable costs.* The executive director or designee shall certify any reimbursable costs incurred by the board. The executive director shall calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

25.33(5) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed, which shall not exceed $75. If the board also assesses reimbursable costs against the licensee, the board shall file a Certification of Reimbursable Costs which includes a statement of costs delineating each category of costs and the amount assessed. The board shall specify the time period in which the fees and costs must be paid by the licensee.

a. Prior to seeking judicial review, a party shall file an objection to any fees or costs imposed by the board in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application shall be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculations of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

25.33(6) *Payment of fees and costs.* All fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to Iowa Board of Medicine and delivered by the licensee to the board office.

25.33(7) *Failure to make payment.* Failure of a licensee to pay any fees and costs within the time specified in the board's decision shall constitute a violation of an order of the board and shall be grounds for disciplinary action.

25.33(8) *Repayment receipts.* Fees and costs collected by the board pursuant to this rule shall be considered repayment receipts as defined in Iowa Code section 8.2.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

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[1] Effective date of subrule 135.204(10) [renumbered 12/4(10), IAC 5/4/88] delayed by the Administrative Rules Review Committee 70 days from November 2, 1983.

[2] Effective date of rules 135.206, 135.207 and 135.208 [renumbered 12.6, 12.7 and 12.8, IAC 5/4/88] delayed by the Administrative Rules Review Committee 70 days from December 12, 1984. Delay lifted by committee on January 9, 1985.

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.

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).

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 registered architect or person experienced in the building and construction field if the person cannot be located after a good faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

b. Residency of members. A person must be a resident of the assessor jurisdiction served to qualify for appointment as a member of the board of review. However, a member changing assessing jurisdiction residency after appointment to the board may continue to serve on the board until the member's current term of office expires.

c. Term of office. The term of office of members of boards of review shall be for six years and shall be staggered as provided in Iowa Code section 441.31. In the event of the death, resignation, or removal from office of a member of a board of review, the conference board or city council shall appoint a successor to serve the unexpired term of the previous incumbent.

d. Membership on other boards. A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

e. Number of members. A conference board or city council may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board or city council shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board or city council shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board or city council may increase the membership of the board of review by an additional two members if it determines that a large number of protests warrant the emergency appointments. If the board of review has ten members, not more than four additional members may be appointed by the conference board. The terms of the emergency members will not exceed two years.

f. *Removal from office.* A member of a board of review may be removed from office by the conference board or city council but only after specific charges have been filed by the conference board or city council.

g. *Appointment of members.* Members of a county board of review shall be appointed by the county conference board. Members of a city board of review shall be appointed by the city conference board in cities with an assessor or by the city council in cities without an assessor. A city without an assessor can only have a board of review if the population of the city is 75,000 or more. A city with a population of more than 125,000 may appoint a city board of review or request the county conference board to appoint a ten-member county board of review.

71.20(2) *Sessions of boards of review.*

a. It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

b. Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue.

c. *Special session.* If a board of review is reconvened by the director of revenue pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and shall perform no other functions.

71.20(3) *Actions initiated by boards of review.*

a. *Internal equalization of assessments.* A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

b. *Omitted assessments.* A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown,* 146 Iowa 360,125 N.W. 248 (1910)).

c. *Notice to taxpayers.* If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers 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]

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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[1] Amendments nullified by 2000 Iowa Acts, SJR 2005, editorially removed IAC Supplement 7/12/00 pursuant to Iowa Code section 17A.6(3).

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

[Created by Executive Order 48 on 2/14/94]
[Prior to 3/31/04, see Iowa Commission on National and Community Service[555];
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CHAPTER 12
REFUGEERISE AMERICORPS

817—12.1(15H) Purpose and description of the program. The purpose of the RefugeeRISE AmeriCorps program is to provide RefugeeRISE AmeriCorps members with training and support to increase community integration and engagement for diverse refugee communities. Awarded on a competitive basis, RefugeeRISE grants will give support to AmeriCorps programs in Iowa utilizing AmeriCorps funds awarded by the commission, other funds received in the community programs account established pursuant to Iowa Code section 15H.5, or both.
[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.2(15H) Applications. Appropriate forms and applications for grants and eligibility preapproval are available from the commission at www.volunteeriowa.org.
[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.3(15H) Program eligibility criteria. The commission and department of human services will establish criteria consistent with state-level needs and federal program requirements. Any program deemed eligible for inclusion as a RefugeeRISE AmeriCorps program must meet the standards outlined by the commission and the department in the application instructions. Refugee-focused AmeriCorps programs that applied for AmeriCorps funding for program year 2016-2017 will be considered conditionally eligible for fiscal year 2017 in order to provide adequate time for criteria to be established. In subsequent years, all applicants that wish to be considered as RefugeeRISE AmeriCorps programs shall be considered as part of the AmeriCorps grant process.
[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.4(15H) Grant criteria. Beginning with the 2017-2018 program year applications, the commission will establish grant criteria and funding priorities consistent with federal regulations and with commission and department of human services goals. Applicants will be considered either in conjunction with the AmeriCorps grant process or, in certain cases, through special competitions outlined and announced by the commission. At a minimum, grant criteria will include the following:

1. Goals and objectives of the project;
2. Qualifications of the applicant to manage funds;
3. For new and recompeting applicants, letters of local support verifying coordination and community cooperation;
4. Total project budget;
5. For previous grantees, evidence of ability to submit timely and accurate reports;
6. Description and time line of planned activities;
7. Description of the applicant organization, including staffing pattern;
8. Documentation of the applicant's ability to provide the required local match; and
9. Program performance and evaluation results and outcomes.

[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.5(15H) Application process for new grants.

12.5(1) *Request for applications.* The commission shall issue a request for applications containing program criteria and application forms for the applicable fiscal year.

12.5(2) *Application time frame.* The applicant shall submit the completed application to the commission according to the time line identified in the request for applications.

12.5(3) *Application review process.* Applications submitted will be reviewed by a grant review committee, which is composed of members of the commission, individuals with expertise in youth programming, and citizens of Iowa. Using the criteria in rule 817—12.4(15H), the committee will review the applications to determine the appropriateness and the merit of the project.

12.5(4) *Notification.* Applicants whose projects have been selected for funding shall be notified by the commission.
[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.6(15H) Administration of grants.

12.6(1) *Contracts.* The commission shall prepare contractual agreements for the grants.

a. The contract shall be executed by the executive director of the commission and the duly authorized official of the project.

b. The contract shall include due dates and the process for the submission of progress reports and financial reports.

12.6(2) *Reporting.* All grant recipients shall submit progress reports and financial reports to the commission.

12.6(3) *Availability of funds.* A separate request for applications will only be issued when there are available funds for this program. To the extent allowable by federal regulations, RefugeeRISE AmeriCorps will always be an acceptable program model for annual AmeriCorps grants and will be listed in the annual AmeriCorps program request for applications.

[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

817—12.7(15H) Reversion of funds. Grant funds not expended by the project closeout date shall revert to the commission and the community programs account established pursuant to Iowa Code section 15H.5.

[**ARC 2715C**, IAB 9/14/16, effective 10/19/16]

These rules are intended to implement 2016 Iowa Acts, House File 2460, sections 90 and 91.

[Filed ARC 2715C (Notice ARC 2613C, IAB 7/6/16), IAB 9/14/16, effective 10/19/16]