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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

Economic Development Authority[261]

Replace Chapter 104

Replace Chapter 110

Educational Examiners Board[282]

Replace Chapter 12

Child Advocacy Board[489]

Replace Chapter 3

Iowa Public Information Board[497]

Replace Analysis

Replace Chapter 8

Environmental Protection Commission[567]

Replace Analysis

Replace Chapter 209

Homeland Security and Emergency Management Department[605]

Replace Chapters 5 to 9

Replace Chapters 11 and 12

Professional Licensure Division[645]

Replace Analysis

Replace Chapters 261 to 263

Replace Chapter 265

Regents Board[681]

Replace Chapter 1

CHAPTER 104
INNOVATIVE BUSINESSES INTERNSHIP PROGRAM

261—104.1(15) Authority. The authority for adopting rules establishing an innovative businesses internship program is provided in Iowa Code section 15.411(4).

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.2(15) Purpose. The purpose of the innovative businesses internship program is to link Iowa students to internship opportunities with innovative small and medium-sized firms and to help such students convert their internships into employment opportunities.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.3(15) Definitions.

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

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Committee*” means the technology commercialization committee established by the board pursuant to 261—Chapter 1.

“*Community college*” means a community college established under Iowa Code chapter 260C.

“*Director*” means the director of the economic development authority.

“*Innovative business*” means the same as defined in Iowa Code section 15E.52(1) “c.”

“*Internship*” means temporary employment of a student that focuses on providing the student with work experience in the student’s field of study.

“*Program*” means the innovative businesses internship program established in this chapter.

“*Prospective employee*” means a student who is anticipated to be hired upon graduation.

“*Student*” means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or a student who graduated from high school in Iowa but attends an institution of higher learning outside the state of Iowa.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.4(15) Program funding.

104.4(1) The maximum award shall not exceed \$3,100 for any single internship or \$9,300 for any single business.

104.4(2) Funds shall only be used for reimbursement of wages during the designated internship period. Students hired as interns shall be paid at least twice the minimum wage.

104.4(3) The authority shall issue funds to a business based upon authority approval of a completed application and the execution of a contract between the business and the authority.

104.4(4) A business may receive financial assistance on a matching basis for a portion of the wages paid to an intern. If providing financial assistance, the authority shall provide the assistance on a reimbursement basis such that for every two dollars of wages earned by the student, one dollar paid by the business is matched by one dollar from the authority.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—104.5(15) Eligible business. Eligible businesses may apply to the authority for assistance under the program. The program is available to Iowa businesses that meet all of the following criteria:

104.5(1) The business must be an Iowa-based business with fewer than 500 employees, with a significant portion employed within the state of Iowa.

104.5(2) The business must be engaged in an innovative business.

104.5(3) The business must offer the internship to students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or to students

who graduated from high school in Iowa but attend an institution of higher learning outside the state of Iowa.

104.5(4) The business's summer internships must last a minimum of 8 weeks (averaging no less than 30 hours per week), and the business's semester internships must last a minimum of 14 weeks (averaging no less than 10 hours per week).

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.6(15) Ineligible business. The following businesses are not eligible for this program:

104.6(1) A business which is engaged in retail sales or which provides health services is ineligible.

104.6(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.
[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10]

261—104.7(15) Eligible students. Students must be within one to two years of graduation and enrolled at one of Iowa's community colleges, private colleges, or institutions of higher learning under the control of the state board of regents. A student as defined in this chapter is eligible for an internship under this rule. The authority shall encourage youth who reside in economically distressed areas, youth adjudicated to have committed a delinquent act, and youth transitioning out of foster care to participate in the program.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.8(15) Ineligible students. Students who are more than two years from graduation are ineligible. Students who are immediate family members of management employees or board members of the applicant business are ineligible. Students who do not otherwise meet the eligibility requirements described in rule 261—104.7(15) are not eligible.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10]

261—104.9(15) Application submittal and review process.

104.9(1) The authority shall develop a standardized application and make the application available to eligible businesses. To apply for assistance under the program, a business shall submit an application to the authority. Applications may be sent to the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available by contacting the authority at that address or from the authority's Web site at www.iowaeconomicdevelopment.com.

104.9(2) The application will be reviewed and scored by authority staff. The director of the authority will make final funding decisions after considering the recommendations of staff. The director has final decision-making authority on requests for financial assistance for this program. The director may approve, defer or deny an application.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 0611C, IAB 2/20/13, effective 3/27/13; ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—104.10(15) Application content and other requirements.

104.10(1) A business seeking assistance under the program must complete an application for internship assistance and submit it to the authority. Successful applicants must enter into a contract with the authority prior to posting or advertising the internship.

104.10(2) If an award is made, the business shall secure an intern within the time period stated in the contract between the authority and the business.

104.10(3) The application shall include, but not be limited to, all of the following:

a. The dates and location of the internship.

b. A statement of duties the intern will be performing at the business site. The intern is to be involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product

development; market research; business planning and administration. The application shall also include information regarding the intern's work space (i.e., access to telephone, computer, and other necessary items).

c. The name of the business's representative who will train and supervise the intern.

d. A statement of the anticipated workforce needs at the business, which shall include an explanation of the current workforce shortage and identify the intern's potential for prospective employment with the business following graduation.

104.10(4) The authority reserves the right to require additional information from the business.
[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.11(15) Selection process. Applications will be reviewed in the order received by the authority. The director may approve, defer or deny each application for financial assistance, based on the availability of funds. The authority will score applications according to the criteria specified in rule 261—104.12(15). To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—104.12(15) Application scoring criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

104.12(1) The intern is involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. 25 points.

104.12(2) The explanation of the business's anticipated workforce needs and of the intern's potential for prospective employment with the business following graduation. 20 points.

104.12(3) The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the business's goals or processes. 10 points.

104.12(4) The internship will have a positive impact on the intern's skills, knowledge and abilities. 15 points.

104.12(5) The internship pays more than twice the minimum wage. 10 points.

104.12(6) The business's contribution to the internship program is above the minimum program match requirement. 10 points.

104.12(7) Intern applications will be accepted from more than one private college, university or community college. 5 points.

104.12(8) The application documents that all considerations, including funding required to begin the internship, have been addressed. 5 points.

[ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 0611C, IAB 2/20/13, effective 3/27/13]

261—104.13(15) Contract and reporting.

104.13(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

104.13(2) Contract required. The authority shall prepare a contract, which includes, but is not limited to, a description of the internship to be completed; conditions to disbursement; required reports; and the repayment requirements imposed in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on an individual basis.

104.13(3) Reporting. A business which has been awarded assistance under the program shall submit any information requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

104.13(4) *Contract amendments.* The board does not need to approve a contract amendment. The director may approve contract amendments consistent with 2011 Iowa Acts, House File 590, section 9. [ARC 8848B, IAB 6/16/10, effective 5/20/10; ARC 9063B, IAB 9/8/10, effective 10/13/10; ARC 9754B, IAB 9/21/11, effective 10/26/11; ARC 0611C, IAB 2/20/13, effective 3/27/13]

These rules are intended to implement Iowa Code section 15.411(4).

[Filed 9/20/07, Notice 8/15/07—published 10/10/07, effective 11/14/07]

[Filed emergency 2/22/08—published 3/12/08, effective 2/22/08]

[Filed 2/22/08, Notice 12/19/07—published 3/12/08, effective 4/16/08]

[Filed Emergency ARC 8848B, IAB 6/16/10, effective 5/20/10]

[Filed ARC 9063B (Notice ARC 8849B, IAB 6/16/10), IAB 9/8/10, effective 10/13/10]

[Filed ARC 9754B (Notice ARC 9617B, IAB 7/13/11), IAB 9/21/11, effective 10/26/11]

[Filed ARC 0611C (Notice ARC 0408C, IAB 10/17/12), IAB 2/20/13, effective 3/27/13]

[Filed Emergency ARC 2099C, IAB 8/19/15, effective 7/20/15]

[Filed ARC 2316C (Notice ARC 2098C, IAB 8/19/15), IAB 12/23/15, effective 1/27/16]

CHAPTER 110
STEM INTERNSHIP PROGRAM

261—110.1(15,85GA,ch1132,86GA,SF510) Authority. The authority for adopting rules establishing a STEM internship program is provided in Iowa Code section 15.411(3) as amended by 2015 Iowa Acts, Senate File 510, division XI, and in Iowa Code section 15.106A.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.2(15,85GA,ch1132,86GA,SF510) Purpose. The purpose of the STEM internship program is to assist in placing Iowa students studying in the fields of science, technology, engineering, and mathematics into internships that lead to permanent positions with Iowa employers.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.3(15,85GA,ch1132,86GA,SF510) Definitions.

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

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Business*” means any enterprise located in this state which is operated for profit and under a single management.

“*Committee*” means the technology commercialization committee established by the board pursuant to 261—Chapter 1.

“*Community college*” means a community college established under Iowa Code chapter 260C.

“*Designated internship period*” means the summer or semester internship during which a student is employed in an internship.

“*Director*” means the director of the economic development authority.

“*Internship*” means temporary employment of a student that focuses on providing the student with work experience in the student’s field of study.

“*Program*” means the STEM internship program established in this chapter.

“*STEM field*” means a major course of study within the fields of science, technology, engineering, or mathematics or a related field. For purposes of this chapter, STEM field includes all majors and academic or degree programs listed on the ACT-defined STEM majors and occupations by area list. The ACT-defined STEM majors and occupations by area list may be found at <http://www.act.org>. If a student has declared a major or enrolled in an academic or degree program not listed on the ACT-defined STEM majors and occupations by area list, the student may still be found eligible for participation in the program if, in the authority’s sole discretion, the student’s major is substantially similar to a major that is listed on the ACT-defined STEM majors and occupations by area list.

“*Student*” means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or a student who graduated from high school in Iowa but now attends an institution of higher learning outside the state of Iowa.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.4(15,85GA,ch1132,86GA,SF510) Program funding and disbursement.

110.4(1) The maximum amount awarded to an employer for any one internship shall not exceed \$5,000. The maximum amount that may be awarded to any one employer in any one fiscal year shall not exceed \$100,000.

110.4(2) Funds shall only be used for reimbursement of wages paid during the designated internship period. An employer must pay students hired as interns an hourly wage that is at least twice the minimum wage. An employer may apply for program funding for an internship beginning prior to July 1, 2014, but the authority will only reimburse the employer for wages paid on or after July 1, 2014.

110.4(3) The authority will disburse funds to an employer only after approval of a completed application and execution of a contract between the employer and the authority. The authority shall have sole discretion in determining whether an application is fully complete.

110.4(4) An Iowa employer may qualify for financial assistance under the program on a matching basis for a portion of the wages paid to an intern during the designated internship period. If providing financial assistance, the authority shall provide the assistance on a reimbursement basis such that for every two dollars of wages earned by the student, one dollar paid by the employer is matched by one dollar from the authority. Funds will be disbursed on a reimbursement basis.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.5(15,85GA,ch1132,86GA,SF510) Eligible employers. Eligible employers may apply to the authority for assistance under the program. The program is available to employers that meet all of the following criteria:

110.5(1) The employer must be an Iowa-based business and have a significant portion of its employees located within the state of Iowa.

110.5(2) The employer must be employing students who have either declared a major in a STEM field or enrolled in a STEM-related academic or degree program at a community college. The students must be employed as interns at a location in Iowa.

110.5(3) The employer must offer the internship to students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents or to students who graduated from high school in Iowa but attend an institution of higher learning outside the state of Iowa.

110.5(4) The employer must offer either summer or semester-based internships. The summer internships must have a minimum duration of 8 weeks (averaging no less than 30 hours per week), and the employer's semester internships must have a minimum duration of 14 weeks (averaging no less than 10 hours per week).

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.6(15,85GA,ch1132,86GA,SF510) Ineligible employers. The following employers are not eligible for the program:

110.6(1) An employer that is a business engaged in retail sales is ineligible.

110.6(2) An employer which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

110.6(3) An employer that has applied or will apply during the same state fiscal year to the innovative businesses internship under 261—Chapter 104 is ineligible to receive funding under the STEM internship program.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.7(15,85GA,ch1132,86GA,SF510) Eligible students. To be eligible, a person shall meet the requirements of a student as defined in rule 261—110.3(15,85GA,ch1132,86GA,SF510), must be within one to two years of graduation, shall have declared a major in a STEM field or enrolled in a STEM-related academic or degree program at a community college, and shall be selected for an internship at an Iowa employer during a designated internship period.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.8(15,85GA,ch1132,86GA,SF510) Ineligible students. Students who are more than two years from graduation are ineligible. Students who have not declared a major, have not declared a major in a STEM field, or are not enrolled in a STEM-related academic or degree program at a community college are ineligible. Students who are immediate family members of management employees or board members of the applicant employer are ineligible. Students who do not otherwise meet the eligibility requirements described in rule 261—110.7(15,85GA,ch1132,86GA,SF510) are ineligible.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.9(15,85GA,ch1132,86GA,SF510) Application submittal and review process.

110.9(1) The authority shall develop a standardized application and make the application available to eligible employers. To apply for assistance under the program, an employer shall submit an application

to the authority. Required forms and instructions are available by contacting the authority or from the authority's Internet site at www.iowaeconomicdevelopment.com.

110.9(2) Applications will be reviewed and scored by the staff of the authority. The director of the authority will make final funding decisions after considering the recommendations of staff. The director has final decision-making authority on requests for financial assistance for this program. The director may approve, defer or deny an application.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.10(15,85GA,ch1132,86GA,SF510) Application content and other requirements.

110.10(1) An employer seeking assistance under the program must complete an application for internship assistance and submit it to the authority.

110.10(2) If an award is made, the employer shall secure an intern within the time period stated in the contract between the authority and the employer.

110.10(3) The application shall include, but not be limited to, all of the following:

a. The dates and location of the internship.

b. A statement of duties the student will be performing at the internship site. The student shall be involved in a substantive experience in an area closely related to the student's STEM field. The application shall also include information regarding the student's work space (i.e., access to telephone, computer, and other necessary items).

c. The name of the employer's representative who will train and supervise the student.

d. A statement of the anticipated workforce needs at the internship site. The statement shall include an explanation of the current workforce shortage and identify the student's potential for prospective employment with the employer following graduation.

110.10(4) In accepting applications from employers, the authority may require additional information reasonably related to the program.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.11(15,85GA,ch1132,86GA,SF510) Award process. Applications will be reviewed in the order received by the authority. The authority will attempt to award as many eligible internships as funding allows. However, the authority may deny applications for incompleteness or because of insufficient funds. The authority will score applications according to the criteria specified in rule 261—110.12(15,85GA,ch1132,86GA,SF510). To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.12(15,85GA,ch1132,86GA,SF510) Application scoring criteria. When applications for financial assistance under the program are reviewed, the following criteria will be considered and scored as described below:

110.12(1) The extent to which the student is involved in a substantive experience closely related to the student's STEM field of study. 30 points.

110.12(2) The quality and sufficiency of the explanation of the employer's anticipated workforce needs and of the student's potential for prospective employment with the employer or another Iowa employer following graduation. 30 points.

110.12(3) The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the employer's goals or processes. 10 points.

110.12(4) The extent to which the internship will have a positive impact on the student's skills, knowledge and abilities. 10 points.

110.12(5) The extent to which the internship pays more than twice the minimum wage. 10 points.

110.12(6) Whether applications will be accepted by the employer from more than one private college, university or community college. 5 points.

110.12(7) Whether the application establishes that all relevant internship considerations, including necessary funding, have been addressed by the employer in advance. 5 points.
[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

261—110.13(15,85GA,ch1132,86GA,SF510) Contract and reporting.

110.13(1) *Notice of award.* Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

110.13(2) *Contract required.* An employer receiving an award under the program shall execute a standard contract prepared by the authority. The contract may include, but is not limited to, a description of the internship to be completed, the conditions for disbursement, any required reports, the applicable events of default, the repayment requirements imposed in the event of default, and any other specific provisions that may be established from time to time on a case-by-case basis.

110.13(3) *Reporting.* An employer receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

110.13(4) *Contract amendments and terminations.* Contract amendments or termination may be approved by the director without board approval.

[ARC 2099C, IAB 8/19/15, effective 7/20/15; ARC 2316C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement 2014 Iowa Acts, chapter 1132, section 12, and Iowa Code section 15.411(3) as amended by 2015 Iowa Acts, Senate File 510, division XI.

[Filed Emergency ARC 2099C, IAB 8/19/15, effective 7/20/15]

[Filed ARC 2316C (Notice ARC 2098C, IAB 8/19/15), IAB 12/23/15, effective 1/27/16]

CHAPTER 12 FEES

282—12.1(272) Issuance of licenses, certificates, authorizations, and statements of professional recognition. All application and licensure fees are nonrefundable. The fee for the issuance of a license, certificate, statement of professional recognition, or authorization shall be \$89 unless otherwise specified below:

1. Class E emergency license shall be \$154.
2. Paraeducator certificate shall be \$44.
3. Behind-the-wheel authorization shall be \$44.

[ARC 9743B, IAB 9/7/11, effective 10/12/11; ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.2(272) Fees for the renewal or extension of licenses, certificates, statements of professional recognition, and authorizations. The fee for the renewal or extension of a license, certificate, statement of professional recognition, or authorization shall be \$89 unless otherwise specified below:

1. The renewal of the paraeducator certificate shall be \$44.
2. The renewal of the behind-the-wheel authorization shall be \$44.
3. A one-year extension for renewal of a coaching authorization shall be \$44.
4. A one-year extension of the initial license shall be \$29. This extension may be issued if the applicant needs one additional year to meet the experience requirement for the standard license, but has met Iowa teaching standards, pursuant to rule 282—20.4(272).

5. A \$29 fee for an extension of the initial administrator license, which may be issued instead of renewing the initial administrator license if the applicant verifies one of the criteria listed in 282—subrule 20.8(2).

[ARC 9743B, IAB 9/7/11, effective 10/12/11; ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.3(272) Evaluation fee. Each application from an out-of-state institution for initial licensure shall include, in addition to the basic fee for the issuance of a license, a one-time nonrefundable \$64 evaluation fee. Each application or request for a statement of professional recognition shall include a one-time nonrefundable \$64 evaluation fee.

[ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.4(272) Adding endorsements.

12.4(1) Fee for each added endorsement. The fee for each additional endorsement to a license following the issuance of the initial license and endorsement(s) shall be \$54. The fee for each additional endorsement added to a paraeducator certificate shall be \$29.

12.4(2) Fee for transcript review. Applicants may ask the board of educational examiners to analyze transcripts if the applicant believes all requirements have been met. Applicants who request board of educational examiners transcript analysis shall be assessed a \$64 transcript evaluation fee for each new endorsement requested. This fee shall be in addition to the fee for adding the endorsement.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.5(272) Duplicate licenses, authorizations, and statements of professional recognition. The fee for the issuance of a duplicate practitioner's license, certificate, statement of professional recognition, or authorization shall be \$19.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.6(272) Late fees.

12.6(1) An additional fee of \$29 per calendar month, not to exceed \$174, shall be imposed if an application for renewal or conversion of a Class A, B, or E license or a statement of professional recognition (SPR) is submitted after the date of expiration of a practitioner's license. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

12.6(2) Failure to hold an endorsement. An additional fee of \$29 per calendar month, not to exceed \$174, shall be imposed if the practitioner holds a valid Iowa license but does not hold an endorsement for the type of service for which the practitioner is employed.

12.6(3) Failure to hold valid Iowa license or authorization. An additional fee of \$104 per calendar month, not to exceed \$520, shall be imposed if the practitioner does not hold a valid Iowa license or authorization. The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

[ARC 2017C, IAB 6/10/15, effective 7/15/15; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.7(272) Fees nonrefundable. All fees as set out in this chapter are nonrefundable.

282—12.8(272) Portfolio review and evaluation fees. The fee for review and evaluation of an applicant portfolio is set as follows:

12.8(1) For the professional education core, the portfolio review and evaluation fee shall be \$504.

12.8(2) For content endorsement, the portfolio review and evaluation fee shall be \$254.

[ARC 8606B, IAB 3/10/10, effective 4/14/10; ARC 2229C, IAB 11/11/15, effective 12/16/15; see Delay note at end of chapter]

282—12.9(272) Retention of incomplete applications.

12.9(1) *Timeline for complete application materials to be submitted.* Upon receipt of an incomplete application, the executive director will send a letter of deficiencies to the applicant stipulating that complete application materials must be submitted to the board office within 45 days of the date the letter is received. If the materials are not received within that timeline, the application process will be closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees, including late fees if applicable, for practicing with an expired license, without the proper endorsement, or without an Iowa board-issued license.

12.9(2) *Background check.* The background check fee will be valid for one year. If a license is not issued within one year of a completed background check, the background check shall be considered void.

12.9(3) *Timeline for audited online renewals.* Upon receipt of notification that the online renewal application has been audited, the applicant shall have 30 days to submit the official transcripts and mandatory reporter verification to the board office. If the materials are not received within that timeline, the applicant will be notified that the application process is closed. If the applicant submits information after the 30-day deadline, the application process requires submission of a complete set of application materials and fees. If the license expires during the 30-day deadline and the applicant is teaching, the school district will be notified that the applicant's license is expired and the individual shall not continue teaching until the complete application materials are submitted to the board office.

12.9(4) *Request for additional time.* If the applicant is not able to submit the application materials by the deadline, the applicant may contact the executive director with a request for additional time. The applicant must submit verification as to the need for the additional time. The executive director will review the request and provide a written decision either approving or denying the request.

[ARC 9386B, IAB 2/23/11, effective 3/30/11; ARC 2017C, IAB 6/10/15, effective 7/15/15]

These rules are intended to implement Iowa Code chapter 272.

[Filed 12/24/08, Notice 10/22/08—published 1/14/09, effective 2/18/09]

[Filed ARC 8606B (Notice ARC 8251B, IAB 11/4/09), IAB 3/10/10, effective 4/14/10]

[Filed ARC 9386B (Notice ARC 9203B, IAB 11/3/10), IAB 2/23/11, effective 3/30/11]

[Filed ARC 9743B (Notice ARC 9570B, IAB 6/29/11), IAB 9/7/11, effective 10/12/11]

[Filed ARC 2017C (Notice ARC 1919C, IAB 3/18/15), IAB 6/10/15, effective 7/15/15]

[Filed ARC 2229C (Notice ARC 2131C, IAB 9/2/15), IAB 11/11/15, effective 12/16/15]¹

¹ December 16, 2015, effective date of ARC 2229C [12.1 to 12.6, 12.8] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2015.

CHAPTER 3
LOCAL FOSTER CARE REVIEW BOARDS
[Prior to 3/23/88, see Foster Care Review Board[445] Ch 3]

489—3.1(237) Local boards. The child advocacy board shall establish local foster care boards in judicial districts as funding is made available for that purpose. The number of local boards needed and established shall be determined by the child advocacy board. A sufficient number of boards will be established to ensure that no board shall carry a caseload larger than 100 cases.

3.1(1) The child advocacy board is responsible under the statute for establishment of policy and procedures which must be consistent with the provisions of the statute. Local boards are required to comply with policies and procedures. If a local board does not agree with a policy or procedure, the local board may bring that issue to the child advocacy board for discussion and request a change by the board. If the child advocacy board upholds the policy, local boards must comply.

3.1(2) Day-to-day implementation of policy is delegated by the child advocacy board to administrative staff. Staff is responsible for bringing questions about policy issues to the child advocacy board for clarification or changes of policy.

3.1(3) Any written communication from a local review board or local board member, in the member's capacity as a board member, to state officials or media shall be sent to the child advocacy board office and reviewed by the administrator prior to its release.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.
[ARC 2322C, IAB 12/23/15, effective 1/27/16]

489—3.2(237) Membership.

3.2(1) The child advocacy board delegates responsibility to the administrator to develop and for local board coordinators to implement an application, recruitment, screening and training process for appointments to vacated local board positions:

a. The process will culminate in the coordinator's preparation of a written selection rationale statement about the prospective appointee to the child advocacy board.

b. The process will include consultation with the chief judge for the court district served by the local board.

c. The administrator will submit each written selection rationale statement electronically to all child advocacy board members no later than 30 calendar days prior to the beginning date of the local board member's prospective term. If a board member vacates the position mid-term, the selection process and resulting written selection rationale statement shall be submitted to the child advocacy board as soon as practicable.

d. Within 15 calendar days after receipt of the written selection rationale statement, any child advocacy board member may request a telephonic child advocacy board meeting to review a prospective appointment. During the meeting, child advocacy board members may raise questions and then vote for the approval or disapproval of the prospective appointment.

e. If no meeting is requested, the prospective local board member is deemed approved by the child advocacy board.

3.2(2) A person employed by the department of inspections and appeals, the department of human services, the judicial department, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The child advocacy board shall provide the names of the members of the local boards to the department of human services.

3.2(3) Vacancies on a local board shall be filled in the same manner as original appointments are made.

3.2(4) The term of a local board member's appointment shall not exceed three years. The child advocacy board shall fix the tenure of individual appointments so that no more than one-third of the membership's terms expire in a given year.

3.2(5) The administrator shall develop a local board member evaluation process. The local board coordinator shall complete the evaluation process at least once for each local board member during

the member's three-year term. The local board coordinator shall consider the results of the evaluation when determining whether to seek appointment of the local board member to a successive term. When submitting a written selection rationale statement to the child advocacy board for a local board member to serve a successive term, the local board coordinator shall include a summary of the evaluation results for that member.

3.2(6) A local board member may serve continuous successive terms when selected and approved in accordance with this rule.

3.2(7) A quorum consists of at least three local review board members or alternates. A quorum shall be present before cases can be reviewed and recommendations can be voted on. At least two members must be present during questioning of interested parties.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.
[ARC 2322C, IAB 12/23/15, effective 1/27/16]

489—3.3(237) Removal of a local board member.

3.3(1) Grounds for removal are:

- a. Not attending mandatory training sessions.
- b. Missing two consecutive board meetings or four board meetings in a year's period, without justifiable cause as determined by the administrator.
- c. Releasing confidential information pursuant to Iowa Code sections 600.16, 217.30, 235A.15 and 237.21, chapters 21 and 22, and other statutory provisions requiring confidentiality.
- d. Any action or behavior that is inconsistent with the purpose and objectives of Iowa Code sections 237.15 to 237.22, the board, and these rules.

3.3(2) The administrator shall write a letter requesting the child advocacy board to take action with specific cause and nature of the cause for removal of local board members. Copies of this request will be given to all child advocacy board members and the person in question at least 15 days in advance of the child advocacy board meeting where a decision will be made.

3.3(3) The person in question may enter written or oral testimony to the child advocacy board ten days in advance of the board meeting for the child advocacy board's consideration.

3.3(4) The child advocacy board shall make the final decision, with no further appeal available, when a quorum is present by an affirmative majority vote. Written notice of the decision will be given to the local board member and will be reflected in the board minutes.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18(2) "f."
[ARC 2322C, IAB 12/23/15, effective 1/27/16]

489—3.4(237) Duties of local board.

3.4(1) Local board reviews. Every six months the local board shall review the case of each child receiving foster care assigned to the local board by the child advocacy board to determine whether satisfactory progress is being made towards the goals of the case permanency plan pursuant to Iowa Code section 237.2. Whenever possible, reviews shall be conducted prior to court review of the cases.

a. Each review will consider the following:

- (1) The past, current, and future status of the child and placement as shown through the case permanency plan and case progress reports submitted by the agency responsible for the placement of the child and other information the board may require.
- (2) The efforts of the agency responsible for the placement of the child to locate and provide services to the biological or adoptive parents of the child.
- (3) The efforts of the agency responsible for the placement of the child to facilitate the return of the child to the home or to find an alternative permanent placement other than foster care if reunion with the parent or previous custodian is not feasible. The agency shall report to the board all factors which either favor or mitigate against a decision or alternative with regard to these matters.

b. The agency responsible for placement of the child or the local board may request an investigation of any problems, solutions, or alternatives with regard to the best interest of the child or of the state.

c. The review shall include issues pertaining to the permanency plan and shall not include issues that do not pertain to the permanency plan. Each review shall include written testimony of any person notified pursuant to Iowa Code section 237.20(4), and may include oral testimony from those persons when determined to be relevant and material to the child's placement. Case relevant written testimony from other interested parties may also be considered by the board in its review.

d. A person who gives oral testimony has the right to representation by counsel at the review. Oral testimony may, upon the request of the testifier or upon motion of the local board, be given in a private setting when to do so would facilitate the presentation of evidence. Local board questions shall pertain to the permanency plan and shall not include issues that do not pertain to the permanency plan.

e. A list of documents and information considered by the local board shall be provided to the child, the parents, their attorneys, judge, department, and the county attorney at their request.

3.4(2) Findings and recommendations. The local board shall submit the findings and recommendations to the appropriate court within 15 days after the review. The findings and recommendations shall include the proposed date of the next review by the local board. The report to the court shall include information regarding the permanency plan and the progress in attaining the permanency goals. The local board shall send a copy of the findings and recommendations to the persons specified in 3.4(3) within 15 days following the review.

3.4(3) The local board shall notify the following persons at least ten days prior to the review of the case of a child receiving foster care:

- a.* The person, court, or agency responsible for the child.
- b.* The parent or parents of the child unless termination of parental rights has occurred pursuant to Iowa Code section 232.117 or chapter 600A.
- c.* The foster care provider of the child.
- d.* The child receiving foster care, if the child is 14 years of age or older. The child shall be informed of the review's purpose and procedure, and of the right to have a guardian ad litem present.
- e.* The guardian ad litem of the foster child. The guardian ad litem shall be eligible for compensation through Iowa Code section 232.141, subsection 1, paragraph "b."
- f.* The department.
- g.* The county attorney.
- h.* The person providing services to the child.
- i.* The child's attorney.

The notice shall include a statement that the person notified has the right to representation by counsel at the review.

3.4(4) The local board shall encourage placement of the child in the most appropriate setting reflecting the provisions of Iowa Code chapter 232.

This rule is intended to implement Iowa Code sections 17A.3 and 237.20.
[ARC 2322C, IAB 12/23/15, effective 1/27/16]

489—3.5(237) Local board coordinator. The local board coordinators are employees of the child advocacy board. They provide a full range of administrative support services to the local boards. As funds permit, the administrator may delegate some of the services and duties of the local board coordinators to administrative support staff or to contracted board facilitators.

3.5(1) Duties of the local board coordinators or other personnel assigned by the administrator include:

- a.* Coordinating logistics of foster care reviews by:
 - (1) Scheduling foster care reviews each six months and notifying appropriate interested parties ten days prior to a review pursuant to Iowa Code section 237.20(4).
 - (2) Recording case information and local board recommendations.
 - (3) Ensuring reports are written and disseminated to courts and other parties pursuant to Iowa Code section 237.20(4) within 15 days after each review.
 - (4) Maintaining central files of confidential materials.
 - (5) Ensuring data is collected for the foster care registry and is updated in a timely manner.

b. Ensuring conformance with standards, official policies and procedures promulgated by the child advocacy board to ensure uniform implementation across the state, and reporting to the administrator and child advocacy board on policy questions and procedural matters that local board members may have.

c. Traveling to all review meetings to coordinate agency objectives and activities with local review boards, juvenile courts, department of human services, and child-placing agencies.

d. Recommending policies and procedures for carrying out the agency's objectives, recognizing board training needs and providing training.

e. Assisting in preparing annual reports and public informational materials which will be disseminated to the governor, general assembly, supreme court, judges, department of human services, and child-placing agencies to assist them in their planning for children in foster care.

3.5(2) Reserved.

This rule is intended to implement Iowa Code sections 17A.3 and 237.15.
[ARC 2322C, IAB 12/23/15, effective 1/27/16]

489—3.6(237) Children eligible for review.

3.6(1) To be eligible for review, the child shall meet the requirements set forth in Iowa Code sections 234.1(2), 234.35 and 234.36; or be under the guardianship of the department; and the child receiving foster care has lived out of the home for more than six months during the last two years.

3.6(2) If the child is not receiving foster care when the six-month review is scheduled, the review may be held if the child has received foster care for a minimum of two months during that six-month period.

3.6(3) If parental rights are terminated, the child's case will continue to be reviewed every six months until the child is placed in an adoptive home and the adoption is finalized.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18.

[Filed emergency 5/30/85—published 6/19/85, effective 5/30/85]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 3/3/88, Notice 1/27/88—published 3/23/88, effective 4/27/88]

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[Filed ARC 2322C (Notice ARC 2223C, IAB 10/28/15), IAB 12/23/15, effective 1/27/16]

IOWA PUBLIC INFORMATION BOARD[497]

CHAPTER 1

ORGANIZATION AND GENERAL ADMINISTRATION

- 1.1(23) Board description
- 1.2(23) Requirements for requesting board advisory opinions
- 1.3(23) Processing of advisory opinion requests
- 1.4(23) Conflict of interest

CHAPTER 2

COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

- 2.1(23) Complaints
- 2.2(23) Investigations—board action
- 2.3(23) Civil penalties and other appropriate remedies
- 2.4(23) Settlements

CHAPTER 3

DECLARATORY ORDERS

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

CHAPTER 4

CONTESTED CASES

- 4.1(17A) Scope and applicability
- 4.2(17A) Definitions
- 4.3(17A) Time requirements
- 4.4(17A) Notice of hearing
- 4.5(17A) Presiding officer
- 4.6(17A) Waiver of procedures
- 4.7(17A) Telephone proceedings
- 4.8(17A) Disqualification
- 4.9(17A) Consolidation—severance
- 4.10(17A) Pleadings
- 4.11(17A) Service and filing of pleadings and other papers
- 4.12(17A) Discovery
- 4.13(17A) Subpoenas
- 4.14(17A) Motions
- 4.15(17A) Prehearing conference
- 4.16(17A) Continuances
- 4.17(17A) Withdrawals
- 4.18(17A) Intervention
- 4.19(17A) Hearing procedures
- 4.20(17A) Evidence

4.21(17A)	Default
4.22(17A)	Ex parte communication
4.23(17A)	Recording costs
4.24(17A)	Interlocutory appeals
4.25(17A)	Final decision
4.26(17A)	Appeals and review
4.27(17A)	Applications for rehearing
4.28(17A)	Stays of agency actions
4.29(17A)	No factual dispute contested cases

CHAPTER 5 PETITIONS FOR RULE MAKING

5.1(17A)	Petition for rule making
5.2(17A)	Briefs
5.3(17A)	Inquiries
5.4(17A)	Board consideration

CHAPTER 6 AGENCY PROCEDURE FOR RULE MAKING

6.1(17A)	Applicability
6.2(17A)	Advice on possible rules before notice of proposed rule adoption
6.3(17A)	Public rule-making docket
6.4(17A)	Notice of proposed rule making
6.5(17A)	Public participation
6.6(17A)	Regulatory analysis
6.7(17A)	Fiscal impact statement
6.8(17A)	Time and manner of rule adoption
6.9(17A)	Variance between adopted rule and published notice of proposed rule adoption
6.10(17A)	Exemptions from public rule-making procedures
6.11(17A)	Concise statement of reasons
6.12(17A)	Contents, style, and form of rule
6.13(17A)	Agency rule-making record
6.14(17A)	Filing of rules
6.15(17A)	Effectiveness of rules prior to publication
6.16(17A)	General statements of policy
6.17(17A)	Review by agency of rules

CHAPTER 7 FAIR INFORMATION PRACTICES

7.1(17A,22)	Definitions
7.2(17A,22)	Statement of policy
7.3(17A,22)	Requests for access to board records
7.4(17A,22)	Procedures for access to confidential records
7.5(17A,22)	Requests for treatment of a government record as a confidential record and its withholding from examination by the board
7.6(17A,22)	Procedure by which additions, dissents or objections may be entered into certain records
7.7(17A,22)	Consensual disclosure of confidential records
7.8(17A,22)	Routine use
7.9(17A,22)	Disclosures without the consent of the subject
7.10(17A,22)	Release to subject
7.11(17A,22)	Availability of records
7.12(17A,22)	Personally identifiable information

- 7.13(17A,22) Other groups of records available for public inspection—policies and procedures (excluding security), meeting minutes
- 7.14(17A,22) Applicability

CHAPTER 8
OPEN MEETINGS

- 8.1(21,23) Notice
- 8.2(21,23) Closed session

CHAPTER 9
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 9.1(17A) Definition
- 9.2(17A) Scope of chapter
- 9.3(17A) Applicability
- 9.4(17A) Criteria for waiver
- 9.5(17A) Filing of petition
- 9.6(17A) Content of petition
- 9.7(17A) Additional information
- 9.8(17A) Notice
- 9.9(17A) Hearing procedures
- 9.10(17A) Ruling
- 9.11(17A) Public availability
- 9.12(17A) Summary reports
- 9.13(17A) Cancellation of waiver
- 9.14(17A) Defense
- 9.15(17A) Appeals

CHAPTER 8
OPEN MEETINGS

497—8.1(21,23) Notice.

8.1(1) *When posted.* As provided in Iowa Code section 21.4, a governmental body shall give notice of the time, date, and place of the meeting and the tentative agenda at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The notice requirement also applies when there is a change to the original notice except as provided in Iowa Code section 21.4(3).

8.1(2) *Where posted.* Notice shall be posted at those locations designated in Iowa Code section 21.4. The notice shall be posted in an area that is easily accessible by the public or in an area where the notice is easily viewable by the public and shall be posted for at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The posting of a notice in an area that is not normally used for the posting of notices or public announcements shall not be deemed proper notice. However, if the posting of a notice in an area normally used for posting of notices is not reasonable or practical such as the area is under construction or renovation, the notice shall be posted in an area that is otherwise easily accessible by the public or in an area where the notice is easily viewable by the public.

8.1(3) *Closed session.* When a governmental body includes a closed session item on the tentative agenda, the notice shall include a brief statement of the purpose of the closed session. It shall not be deemed sufficient notice for the governmental body to only reference the statute by number and subparagraph without more information. For example, it shall not be sufficient notice for the governmental body to list as an agenda item “closed session 21.5(1)(a).” The brief statement of purpose does not require the governmental body to provide more information than what is required under subparagraphs (a) through (l) in Iowa Code section 21.5(1). Examples of notice deemed sufficient would be “closed session 21.5(1)(c) discuss litigation with counsel” or “closed session 21.5(1)(l) discuss patient care quality or discuss marketing and pricing strategies.”

This rule is intended to implement Iowa Code chapter 21.
[ARC 2091C, IAB 8/5/15, effective 9/9/15]

497—8.2(21,23) Closed session.

8.2(1) *Who may attend.* A governmental body has the discretion as to who it may invite to attend a closed session. However, if the governmental body holds a closed session under Iowa Code section 21.5(1) “c” to discuss strategy with counsel, the legal counsel for the governmental body shall be in attendance at the closed session either in person or by electronic means.

8.2(2) Reserved.

This rule is intended to implement Iowa Code section 21.5.
[ARC 2315C, IAB 12/23/15, effective 1/27/16]

[Filed ARC 2091C (Notice ARC 2010C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]

[Filed ARC 2315C (Notice ARC 2159C, IAB 9/30/15), IAB 12/23/15, effective 1/27/16]

ENVIRONMENTAL PROTECTION COMMISSION[567]

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the “umbrella” of the Department of Natural Resources.

TITLE I *GENERAL*

CHAPTER 1

OPERATION OF ENVIRONMENTAL PROTECTION COMMISSION

- 1.1(17A,455A) Scope
- 1.2(17A,455A) Time of meetings
- 1.3(17A,455A) Place of meetings
- 1.4(17A,455A) Notification of meetings
- 1.5(17A,455A) Attendance and participation by the public
- 1.6(17A,455A) Quorum and voting requirements
- 1.7(17A,455A) Conduct of meeting
- 1.8(17A,455A) Minutes, transcripts, and recordings of meetings
- 1.9(17A,455A) Officers and duties
- 1.10(17A,455A) Election and succession of officers
- 1.11(68B) Sales of goods and services

CHAPTER 2

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 2.1(17A,22) Adoption by reference

CHAPTER 3

SUBMISSION OF INFORMATION AND COMPLAINTS—INVESTIGATIONS

- 3.1(17A,455B) Adoption by reference

CHAPTER 4

AGENCY PROCEDURE FOR RULE MAKING

- 4.1(17A) Adoption by reference

CHAPTER 5

PETITIONS FOR RULE MAKING

- 5.1(17A) Adoption by reference

CHAPTER 6

DECLARATORY ORDERS

- 6.1(17A) Adoption by reference

CHAPTER 7

RULES OF PRACTICE IN CONTESTED CASES

- 7.1(17A) Adoption by reference

CHAPTER 8

CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

- 8.1(17A) Adoption by reference

CHAPTER 9

DELEGATION OF CONSTRUCTION PERMITTING AUTHORITY

- 9.1(455B) Scope
- 9.2(455B,17A) Forms
- 9.3(455B) Procedures
- 9.4(455B) Criteria for authority

CHAPTER 10
ADMINISTRATIVE PENALTIES

- 10.1(455B) Scope
- 10.2(455B) Criteria for screening and assessing administrative penalties
- 10.3(455B) Assessment of administrative penalties

CHAPTER 11
TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING PROPERTY

- 11.1(427) Scope
- 11.2(427,17A) Form
- 11.3(427) Time of submission
- 11.4(427) Notice
- 11.5(427) Issuance
- 11.6(427) Criteria for determining eligibility

CHAPTER 12
ENVIRONMENTAL SELF-AUDITS

- 12.1(455K) General
- 12.2(455K) Notice of audit
- 12.3(455K) Request for extension
- 12.4(455K) Disclosure of violation

CHAPTER 13
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 13.1(17A) Adoption by reference
- 13.2(17A) Report to commission

CHAPTER 14
ENVIRONMENTAL COVENANTS

- 14.1(455B,455H) Definitions
- 14.2(455B,455H) Environmental covenants
- 14.3(455B,455H) Supporting documentation
- 14.4(455B,455H) Recording and approval
- 14.5(455B,455H) Mandatory provisions
- 14.6(455B,455H) Optional provisions
- 14.7(455B,455H) Modification and termination
- 14.8(455B,455H) Signatories to the environmental covenant
- 14.9(455B,455H) Notice

CHAPTER 15
CROSS-MEDIA ELECTRONIC REPORTING

- 15.1(455B,554D) Purpose

CHAPTER 16
REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE
FOR FAILURE TO PAY STATE LIABILITIES

- 16.1(272D,261) Purpose and use
- 16.2(272D,261) Definitions
- 16.3(272D,261) Requirements of the department
- 16.4(272D,261) No administrative appeal of the department's action
- 16.5(272D,261) District court hearing

CHAPTER 17
COMPLIANCE AND ENFORCEMENT PROCEDURES

17.1(455B)	Scope
17.2(455B)	Basis
17.3(455B)	Option to respond
17.4(455B)	Department discretion

CHAPTERS 18 and 19
Reserved

TITLE II
AIR QUALITY

CHAPTER 20
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

20.1(455B,17A)	Scope of title
20.2(455B)	Definitions

CHAPTER 21
COMPLIANCE

21.1(455B)	Compliance schedule
21.2(455B)	Variances
21.3(455B)	Emission reduction program
21.4(455B)	Circumvention of rules
21.5(455B)	Evidence used in establishing that a violation has or is occurring
21.6(455B)	Temporary electricity generation for disaster situations

CHAPTER 22
CONTROLLING POLLUTION

22.1(455B)	Permits required for new or existing stationary sources
22.2(455B)	Processing permit applications
22.3(455B)	Issuing permits
22.4(455B)	Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)
22.5(455B)	Special requirements for nonattainment areas
22.6	Reserved
22.7(455B)	Alternative emission control program
22.8(455B)	Permit by rule
22.9(455B)	Special requirements for visibility protection
22.10(455B)	Permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment
22.11 to 22.99	Reserved
22.100(455B)	Definitions for Title V operating permits
22.101(455B)	Applicability of Title V operating permit requirements
22.102(455B)	Source category exemptions
22.103(455B)	Insignificant activities
22.104(455B)	Requirement to have a Title V permit
22.105(455B)	Title V permit applications
22.106(455B)	Title V permit fees
22.107(455B)	Title V permit processing procedures
22.108(455B)	Permit content
22.109(455B)	General permits
22.110(455B)	Changes allowed without a Title V permit revision (off-permit revisions)
22.111(455B)	Administrative amendments to Title V permits

22.112(455B)	Minor Title V permit modifications
22.113(455B)	Significant Title V permit modifications
22.114(455B)	Title V permit reopenings
22.115(455B)	Suspension, termination, and revocation of Title V permits
22.116(455B)	Title V permit renewals
22.117 to 22.119	Reserved
22.120(455B)	Acid rain program—definitions
22.121(455B)	Measurements, abbreviations, and acronyms
22.122(455B)	Applicability
22.123(455B)	Acid rain exemptions
22.124	Reserved
22.125(455B)	Standard requirements
22.126(455B)	Designated representative—submissions
22.127(455B)	Designated representative—objections
22.128(455B)	Acid rain applications—requirement to apply
22.129(455B)	Information requirements for acid rain permit applications
22.130(455B)	Acid rain permit application shield and binding effect of permit application
22.131(455B)	Acid rain compliance plan and compliance options—general
22.132	Reserved
22.133(455B)	Acid rain permit contents—general
22.134(455B)	Acid rain permit shield
22.135(455B)	Acid rain permit issuance procedures—general
22.136(455B)	Acid rain permit issuance procedures—completeness
22.137(455B)	Acid rain permit issuance procedures—statement of basis
22.138(455B)	Issuance of acid rain permits
22.139(455B)	Acid rain permit appeal procedures
22.140(455B)	Permit revisions—general
22.141(455B)	Permit modifications
22.142(455B)	Fast-track modifications
22.143(455B)	Administrative permit amendment
22.144(455B)	Automatic permit amendment
22.145(455B)	Permit reopenings
22.146(455B)	Compliance certification—annual report
22.147	Reserved
22.148(455B)	Sulfur dioxide opt-ins
22.149 to 22.299	Reserved
22.300(455B)	Operating permit by rule for small sources

CHAPTER 23

EMISSION STANDARDS FOR CONTAMINANTS

23.1(455B)	Emission standards
23.2(455B)	Open burning
23.3(455B)	Specific contaminants
23.4(455B)	Specific processes
23.5(455B)	Anaerobic lagoons
23.6(455B)	Alternative emission limits (the “bubble concept”)

CHAPTER 24

EXCESS EMISSION

24.1(455B)	Excess emission reporting
24.2(455B)	Maintenance and repair requirements

CHAPTER 25
MEASUREMENT OF EMISSIONS

- 25.1(455B) Testing and sampling of new and existing equipment
- 25.2(455B) Continuous emission monitoring under the acid rain program
- 25.3(455B) Mercury emissions testing and monitoring

CHAPTER 26
PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

- 26.1(455B) General
- 26.2(455B) Episode criteria
- 26.3(455B) Preplanned abatement strategies
- 26.4(455B) Actions taken during episodes

CHAPTER 27
CERTIFICATE OF ACCEPTANCE

- 27.1(455B) General
- 27.2(455B) Certificate of acceptance
- 27.3(455B) Ordinance or regulations
- 27.4(455B) Administrative organization
- 27.5(455B) Program activities

CHAPTER 28
AMBIENT AIR QUALITY STANDARDS

- 28.1(455B) Statewide standards

CHAPTER 29
QUALIFICATION IN VISUAL DETERMINATION OF THE OPACITY OF EMISSIONS

- 29.1(455B) Methodology and qualified observer

CHAPTER 30
Reserved

CHAPTER 31
NONATTAINMENT AREAS

- 31.1(455B) Permit requirements relating to nonattainment areas
- 31.2(455B) Conformity of general federal actions to the Iowa state implementation plan or federal implementation plan
- NONATTAINMENT AREAS DESIGNATED ON OR AFTER MAY 18, 1998
- 31.3(455B) Nonattainment new source review requirements for areas designated nonattainment on or after May 18, 1998
- 31.4(455B) Preconstruction review permit program
- 31.5 to 31.8 Reserved
- 31.9(455B) Actuals PALs
- 31.10(455B) Validity of rules
- 31.11 to 31.19 Reserved
- NONATTAINMENT AREAS DESIGNATED BEFORE MAY 18, 1998
- 31.20(455B) Special requirements for nonattainment areas designated before May 18, 1998 (originally adopted in 567—22.5(455B))

CHAPTER 32
ANIMAL FEEDING OPERATIONS FIELD STUDY

- 32.1(455B) Animal feeding operations field study
- 32.2(455B) Definitions

- 32.3(455B) Exceedance of the health effects value (HEV) for hydrogen sulfide
- 32.4(455B) Exceedance of the health effects standard (HES) for hydrogen sulfide
- 32.5(455B) Iowa Air Sampling Manual

CHAPTER 33

SPECIAL REGULATIONS AND CONSTRUCTION PERMIT REQUIREMENTS FOR MAJOR STATIONARY SOURCES—PREVENTION OF SIGNIFICANT DETERIORATION (PSD) OF AIR QUALITY

- 33.1(455B) Purpose
- 33.2 Reserved
- 33.3(455B) Special construction permit requirements for major stationary sources in areas designated attainment or unclassified (PSD)
- 33.4 to 33.8 Reserved
- 33.9(455B) Plantwide applicability limitations (PALs)
- 33.10(455B) Exceptions to adoption by reference

CHAPTER 34

PROVISIONS FOR AIR QUALITY EMISSIONS TRADING PROGRAMS

- 34.1(455B) Purpose
- 34.2 to 34.199 Reserved
- 34.200(455B) Provisions for air emissions trading and other requirements for the Clean Air Interstate Rule (CAIR)
- 34.201(455B) CAIR NOx annual trading program general provisions
- 34.202(455B) CAIR designated representative for CAIR NOx sources
- 34.203(455B) Permits
- 34.204 Reserved
- 34.205(455B) CAIR NOx allowance allocations
- 34.206(455B) CAIR NOx allowance tracking system
- 34.207(455B) CAIR NOx allowance transfers
- 34.208(455B) Monitoring and reporting
- 34.209(455B) CAIR NOx opt-in units
- 34.210(455B) CAIR SO2 trading program
- 34.211 to 34.219 Reserved
- 34.220(455B) CAIR NOx ozone season trading program
- 34.221(455B) CAIR NOx ozone season trading program general provisions
- 34.222(455B) CAIR designated representative for CAIR NOx ozone season sources
- 34.223(455B) CAIR NOx ozone season permits
- 34.224 Reserved
- 34.225(455B) CAIR NOx ozone season allowance allocations
- 34.226(455B) CAIR NOx ozone season allowance tracking system
- 34.227(455B) CAIR NOx ozone season allowance transfers
- 34.228(455B) CAIR NOx ozone season monitoring and reporting
- 34.229(455B) CAIR NOx ozone season opt-in units

CHAPTER 35

AIR EMISSIONS REDUCTION ASSISTANCE PROGRAM

- 35.1(455B) Purpose
- 35.2(455B) Definitions
- 35.3(455B) Role of the department of natural resources
- 35.4(455B) Eligible projects
- 35.5(455B) Forms
- 35.6(455B) Project selection
- 35.7(455B) Funding sources

35.8(455B)	Type of financial assistance
35.9(455B)	Term of loans
35.10(455B)	Reduced award
35.11(455B)	Fund disbursement limitations
35.12(455B)	Applicant cost share
35.13(455B)	Eligible costs
35.14(455B)	Ineligible costs
35.15(455B)	Written agreement
35.16(455B)	Financial assistance denial

TITLE III
WITHDRAWAL DIVERSION, STORAGE AND USE OF WATER
 DIVISION A
 WATER WELL CONSTRUCTION: GENERAL STANDARDS AND REGISTRATION OF CONTRACTORS

CHAPTERS 36 and 37

Reserved

CHAPTER 38

PRIVATE WATER WELL CONSTRUCTION PERMITS

38.1(455B)	Definitions
38.2(455B)	Forms
38.3(455B)	Permit requirement
38.4(455B)	Form of application
38.5(455B)	Fees
38.6(455B)	Well maintenance and reconstruction
38.7(455B)	Emergency permits
38.8(455B)	Permit issuance and conditions
38.9(455B)	Noncompliance
38.10(455B)	Expiration of a permit
38.11(455B)	Transferability
38.12(455B)	Denial of a permit
38.13(455B)	Appeal of a permit denial
38.14	Reserved
38.15(455B)	Delegation of authority to county board of supervisors
38.16(455B)	Concurrent authority of the department
38.17(455B)	Revocation of delegation agreement

CHAPTER 39

REQUIREMENTS FOR PROPERLY PLUGGING ABANDONED WELLS

39.1(455B)	Purpose
39.2(455B)	Applicability
39.3(455B)	Definitions
39.4(455B)	Forms
39.5(455B)	Abandoned well plugging schedule
39.6(455B)	Abandoned well owner responsibilities
39.7(455B)	Abandoned well plugging materials
39.8(455B)	Abandoned well plugging procedures
39.9(455B)	Designated agent
39.10(455B)	Designation of standby wells
39.11(455B)	Variances

DIVISION B
DRINKING WATER

CHAPTER 40

SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

40.1(455B)	Scope of division
40.2(455B)	Definitions
40.3(17A,455B)	Forms
40.4(17A,455B)	Public water supply construction permit application procedures
40.5(17A,455B)	Public water supply operation permit application procedures
40.6(455B)	Drinking water state revolving fund loan application procedures
40.7(455B)	Viability assessment procedures

CHAPTER 41
WATER SUPPLIES

41.1(455B)	Primary drinking water regulations—coverage
41.2(455B)	Biological maximum contaminant levels (MCL) and monitoring requirements
41.3(455B)	Maximum contaminant levels (MCLs) and monitoring requirements for inorganic contaminants other than lead or copper
41.4(455B)	Lead, copper, and corrosivity
41.5(455B)	Organic chemicals
41.6(455B)	Disinfection byproducts maximum contaminant levels and monitoring requirements
41.7	Reserved
41.8(455B)	Radionuclides
41.9 and 41.10	Reserved
41.11(455B)	Special monitoring
41.12(455B)	Alternative analytical techniques
41.13(455B)	Monitoring of interconnected public water supply systems
41.14(455B)	Department analytical results used to determine compliance
41.15(455B)	Monitoring of other contaminants

CHAPTER 42
PUBLIC NOTIFICATION, PUBLIC EDUCATION,
CONSUMER CONFIDENCE REPORTS, REPORTING,
AND RECORD MAINTENANCE

42.1(455B)	Public notification
42.2(455B)	Public education for lead action level exceedance
42.3(455B)	Consumer confidence reports
42.4(455B)	Reporting
42.5(455B)	Record maintenance

CHAPTER 43
WATER SUPPLIES—DESIGN AND OPERATION

43.1(455B)	General information
43.2(455B)	Permit to operate
43.3(455B)	Public water supply system construction
43.4(455B)	Certification of completion
43.5(455B)	Filtration and disinfection for surface water and influenced groundwater public water supply systems
43.6(455B)	Residual disinfectant and disinfection byproduct precursors
43.7(455B)	Lead and copper treatment techniques
43.8(455B)	Viability assessment

- 43.9(455B) Enhanced filtration and disinfection requirements for surface water and IGW systems serving at least 10,000 people
- 43.10(455B) Enhanced filtration and disinfection requirements for surface water and IGW systems serving fewer than 10,000 people
- 43.11(455B) Enhanced treatment for *Cryptosporidium*
- 43.12(455B) Optimization goals

CHAPTER 44

DRINKING WATER STATE REVOLVING FUND

- 44.1(455B) Statutory authority
- 44.2(455B) Scope of title
- 44.3(455B) Purpose
- 44.4(455B) Definitions
- 44.5(455B) Set-asides
- 44.6(455B) Eligibility
- 44.7(455B) Project point ranking system (project priority list)
- 44.8(455B) Intended use plan
- 44.9(455B) Department initial approval of projects
- 44.10(455B) General administrative requirements
- 44.11 Reserved
- 44.12(455B) Construction phase and postconstruction phase requirements
- 44.13(455B) Sanctions
- 44.14(455B) Disputes

CHAPTERS 45 to 48

Reserved

CHAPTER 49

NONPUBLIC WATER SUPPLY WELLS

- 49.1(455B) Purpose
- 49.2(455B) Definitions
- 49.3(455B) Applicability
- 49.4(455B) General
- 49.5(455B) Variances
- 49.6(455B) Location of wells
- 49.7(455B) General construction requirements
- 49.8(455B) Types of well construction
- 49.9(455B) Material standards
- 49.10(455B) Well reconstruction
- 49.11(455B) Disposal of drilling mud
- 49.12(455B) Pumps and pumping equipment
- 49.13(455B) Drop pipe
- 49.14(455B) Pump wiring
- 49.15(455B) Pitless adapters and pitless units
- 49.16(455B) Well caps and seals
- 49.17(455B) Vents
- 49.18(455B) Underground piping
- 49.19(455B) Underground wiring
- 49.20(455B) Sampling faucets
- 49.21(455B) Hydropneumatic (pressure) tanks
- 49.22(455B) Electrical connections
- 49.23(455B) Interconnections and cross connections
- 49.24(455B) Backflow prevention for chemical injection systems for nonpotable water wells

- 49.25(455B) Filters and water treatment equipment
- 49.26(455B) Well disinfection
- 49.27(455B) Water sampling and analysis
- 49.28(455B) Abandonment of wells
- 49.29(455B) Closed circuit vertical heat exchangers

DIVISION C
WITHDRAWAL, DIVERSION AND STORAGE
OF WATER: WATER RIGHTS ALLOCATION

CHAPTER 50

SCOPE OF DIVISION—DEFINITIONS—FORMS—RULES OF PRACTICE

- 50.1(455B) Scope of division
- 50.2(455B) Definitions
- 50.3(17A,455B) Forms for withdrawal, diversion or storage of water
- 50.4(17A,455B) How to request a permit
- 50.5(455B) Initial screening of applications
- 50.6(17A,455B) Supporting information
- 50.7(17A,455B) Review of complete applications
- 50.8(17A,455B) Initial decision by the department
- 50.9(17A,455B) Appeal of initial decision

CHAPTER 51

WATER PERMIT OR REGISTRATION—WHEN REQUIRED

- 51.1(455B) Scope of chapter
- 51.2(455B) Storage (surface)
- 51.3(455B) Diversion from surface into aquifer
- 51.4(455B) Drain tile lines
- 51.5(455B) Cooling/heating systems
- 51.6(455B) Miscellaneous uses
- 51.7(455B) Excavation and processing of rock and gravel products
- 51.8(159) Agricultural drainage wells

CHAPTER 52

CRITERIA AND CONDITIONS FOR AUTHORIZING WITHDRAWAL,
DIVERSION AND STORAGE OF WATER

- 52.1(455B) Scope of chapter
- 52.2(455B) Conditions on permitted water uses
- 52.3(455B) Conditions on withdrawals from streams
- 52.4(455B) Conditions on withdrawals from groundwater sources
- 52.5(455B) Duration of permits for withdrawal or diversion of water
- 52.6(455B) Monitoring, recording and reporting of water use and effects on water source
- 52.7(455B) Modification, cancellation, and emergency suspension of permits
- 52.8(455B) Designated protected flows of streams
- 52.9(455B) Water conservation
- 52.10(455B) Priority allocation restrictions
- 52.11(455B) Plugging of abandoned wells
- 52.12 to 52.19 Reserved
- 52.20(455B) Water storage permits
- 52.21(455B) Permits to divert water to an agricultural drainage well

CHAPTER 53

PROTECTED WATER SOURCES — PURPOSES — DESIGNATION PROCEDURES —
INFORMATION IN WITHDRAWAL APPLICATIONS — LIMITATIONS —
LIST OF PROTECTED SOURCES

- 53.1(455B) Scope of chapter
- 53.2(455B) Designation of protected sources
- 53.3(455B) Purposes of designating a protected source
- 53.4(455B) Designation procedure
- 53.5(455B) Information requirements for applications to withdraw water from protected sources
- 53.6(455B) Conditions in permits for withdrawals of water from a protected source
- 53.7(455B) List of protected water sources

CHAPTER 54

CRITERIA AND CONDITIONS FOR PERMIT RESTRICTIONS OR COMPENSATION BY
PERMITTED USERS TO NONREGULATED USERS DUE TO WELL INTERFERENCE

- 54.1(455B) Scope of chapter
- 54.2(455B) Requirements for informal negotiations
- 54.3(455B) Failure to cooperate
- 54.4(455B) Well interference by proposed withdrawals
- 54.5(455B) Well interference by existing permitted uses
- 54.6(455B) Verification of well interference
- 54.7(455B) Settlement procedures
- 54.8(455B) Recurring complaints
- 54.9(455B) Variances
- 54.10(455B) Appeal procedures

CHAPTER 55

AQUIFER STORAGE AND RECOVERY:
CRITERIA AND CONDITIONS FOR AUTHORIZING STORAGE,
RECOVERY, AND USE OF WATER

- 55.1(455B) Statutory authority
- 55.2 Reserved
- 55.3(455B) Purpose
- 55.4(455B) Definitions
- 55.5(455B) Application processing
- 55.6(455B) Aquifer storage and recovery technical evaluation criteria

CHAPTERS 56 to 59

Reserved

TITLE IV

WASTEWATER TREATMENT AND DISPOSAL

CHAPTER 60

SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

- 60.1(455B,17A) Scope of title
- 60.2(455B) Definitions
- 60.3(455B,17A) Forms
- 60.4(455B,17A) Application procedures and requirements generally

CHAPTER 61
WATER QUALITY STANDARDS

WATER QUALITY STANDARDS

61.1	Reserved
61.2(455B)	General considerations
61.3(455B)	Surface water quality criteria
61.4 to 61.9	Reserved

VOLUNTEER MONITORING DATA REQUIREMENTS

61.10(455B)	Purpose
61.11(455B)	Monitoring plan required
61.12(455B)	Use of volunteer monitoring data
61.13(455B)	Department audits of volunteer monitoring activities

CHAPTER 62

EFFLUENT AND PRETREATMENT STANDARDS:
OTHER EFFLUENT LIMITATIONS OR PROHIBITIONS

62.1(455B)	Prohibited discharges
62.2(455B)	Exemption of adoption of certain federal rules from public participation
62.3(455B)	Secondary treatment information: effluent standards for publicly owned treatment works and semipublic sewage disposal systems
62.4(455B)	Federal effluent and pretreatment standards
62.5(455B)	Federal toxic effluent standards
62.6(455B)	Effluent limitations and pretreatment requirements for sources for which there are no federal effluent or pretreatment standards
62.7(455B)	Effluent limitations less stringent than the effluent limitation guidelines
62.8(455B)	Effluent limitations or pretreatment requirements more stringent than the effluent or pretreatment standards
62.9(455B)	Disposal of pollutants into wells
62.10(455B)	Effluent reuse

CHAPTER 63

MONITORING, ANALYTICAL AND REPORTING REQUIREMENTS

63.1(455B)	Guidelines establishing test procedures for the analysis of pollutants
63.2(455B)	Records of monitoring activities and results
63.3(455B)	Minimum self-monitoring requirements in permits
63.4(455B)	Effluent toxicity testing requirements in permits
63.5(455B)	Self-monitoring and reporting for animal feeding operations
63.6(455B)	Bypasses and upsets
63.7(455B)	Submission of records of operation
63.8(455B)	Frequency of submitting records of operation
63.9(455B)	Content of records of operation
63.10(455B)	Records of operation forms
63.11(455B)	Certification and signatory requirements in the submission of records of operation
63.12(455B)	Twenty-four-hour reporting
63.13(455B)	Planned changes
63.14(455B)	Anticipated noncompliance

CHAPTER 64

WASTEWATER CONSTRUCTION AND OPERATION PERMITS

64.1	Reserved
64.2(455B)	Permit to construct
64.3(455B)	Permit to operate

64.4(455B)	Issuance of NPDES permits
64.5(455B)	Notice and public participation in the individual NPDES permit process
64.6(455B)	Completing a Notice of Intent for coverage under a general permit
64.7(455B)	Terms and conditions of NPDES permits
64.8(455B)	Reissuance of operation and NPDES permits
64.9(455B)	Monitoring, record keeping and reporting by operation permit holders
64.10(455B)	Silvicultural activities
64.11 and 64.12	Reserved
64.13(455B)	Storm water discharges
64.14(455B)	Transfer of title and owner or operator address change
64.15(455B)	General permits issued by the department
64.16(455B)	Fees
64.17(455B)	Validity of rules
64.18(455B)	Applicability

CHAPTER 65 ANIMAL FEEDING OPERATIONS

DIVISION I CONFINEMENT FEEDING OPERATIONS

65.1(459,459B)	Definitions
65.2(459,459B)	Minimum manure control requirements and reporting of releases
65.3(459,459B)	Requirements and recommended practices for land application of manure
65.4	Reserved
65.5(459,459B)	Departmental evaluation
65.6(459,459B)	Concentrated animal feeding operations; NPDES permits
65.7(459,459B)	Construction permits—required approvals, permits, determinations and declaratory orders
65.8(459,459B)	Construction
65.9(459,459B)	Preconstruction submittal requirements
65.10(459,459B)	Construction permit application review process, site inspections and complaint investigations
65.11(459,459B)	Confinement feeding operation and stockpile separation distance requirements
65.12(459,459B)	Exemptions and variances to confinement feeding operation and stockpile separation distance requirements and prohibition of construction on the one hundred year flood plain
65.13 and 65.14	Reserved
65.15(459,459B)	Manure storage structure design requirements
65.16(459,459B)	Manure management plan requirements
65.17(459,459B)	Manure management plan content requirements
65.18(459,459B)	Construction certification
65.19(459,459B)	Manure applicators certification
65.20(459,459B)	Manure storage indemnity fund
65.21(459,459B)	Transfer of legal responsibilities or title
65.22(459,459B)	Validity of rules
65.23 to 65.99	Reserved

DIVISION II OPEN FEEDLOT OPERATIONS

65.100(455B,459,459A)	Definitions
65.101(459A)	Minimum open feedlot effluent control requirements and reporting of releases
65.102(455B,459A)	NPDES permits required for CAFOs
65.103(455B,459A)	Departmental evaluation; CAFO designation; remedial actions
65.104(455B,459A)	NPDES permits

- 65.105(459A) Construction permits
- 65.106(459A) Construction
- 65.107(459A) Construction permit application
- 65.108(455B,459A) Water well separation distances for open feedlot operations
- 65.109(459A) Settled open feedlot effluent basins—investigation, design and construction requirements
- 65.110(459A) AT systems—design requirements
- 65.111(459A) Construction certification
- 65.112(459A) Nutrient management plan requirements
- 65.113(459A) Complaint investigations
- 65.114(455B,459A) Transfer of legal responsibilities or title

CHAPTER 66

PESTICIDE APPLICATION TO WATERS

- 66.1(455B) Aquatic pesticide

CHAPTER 67

STANDARDS FOR THE LAND APPLICATION OF SEWAGE SLUDGE

- 67.1(455B) Land application of sewage sludge
- 67.2(455B) Exclusions
- 67.3(455B) Sampling and analysis
- 67.4(455B) Land application program
- 67.5(455B) Special definitions
- 67.6(455B) Permit requirements
- 67.7(455B) Land application requirements for Class I sewage sludge
- 67.8(455B) Land application requirements for Class II sewage sludge
- 67.9(455B) Class III sewage sludge
- 67.10(455B) Sampling and analytical methods
- 67.11(455B) Pathogen treatment processes

CHAPTER 68

COMMERCIAL SEPTIC TANK CLEANERS

- 68.1(455B) Purpose and applicability
- 68.2(455B) Definitions
- 68.3(455B) Licensing requirements
- 68.4(455B) Licensing procedures
- 68.5(455B) Suspension, revocation and denial of license
- 68.6(455B) Licensee's obligations
- 68.7(455B) County obligations
- 68.8(455B) Application sites and equipment inspections
- 68.9(455B) Standards for commercial cleaning of private sewage disposal systems
- 68.10(455B) Standards for disposal
- 68.11(455B) Standards for disposal of on-farm food processing wastewater

CHAPTER 69

PRIVATE SEWAGE DISPOSAL SYSTEMS

- 69.1(455B) General
- 69.2(455B) Time of transfer inspections
- 69.3(455B) Site analysis
- 69.4(455B) Requirements when effluent is discharged into surface water
- 69.5(455B) Requirements when effluent is discharged above the ground surface
- 69.6(455B) Requirements when effluent is discharged into the soil
- 69.7(455B) Building sewers

69.8(455B)	Primary treatment—septic tanks
69.9(455B)	Secondary treatment—subsurface soil absorption systems
69.10(455B)	Mound systems
69.11(455B)	At-grade systems
69.12(455B)	Drip irrigation
69.13(455B)	Packed bed media filters
69.14(455B)	Aerobic treatment units
69.15(455B)	Constructed wetlands
69.16(455B)	Waste stabilization ponds
69.17(455B)	Requirements for impervious vault toilets
69.18(455B)	Requirements for portable toilets
69.19(455B)	Other methods of wastewater disposal
69.20(455B)	Disposal of septage from private sewage disposal systems
69.21(455B)	Experimental private sewage disposal systems
69.22(455B)	Variances

TITLE V
FLOOD PLAIN DEVELOPMENT

CHAPTER 70

SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

70.1(455B,481A)	Scope of title
70.2(455B,481A)	Definitions
70.3(17A,455B,481A)	Forms
70.4(17A,455B,481A)	Requesting approval of flood plain development
70.5(17A,455B,481A)	Procedures for review of applications
70.6(17A,455B,481A)	Appeal of initial decision

CHAPTER 71

FLOOD PLAIN OR FLOODWAY DEVELOPMENT—
WHEN APPROVAL IS REQUIRED

71.1(455B)	Bridges, culverts, temporary stream crossings, and road embankments
71.2(455B)	Channel changes
71.3(455B)	Dams
71.4(455B)	Levees or dikes
71.5(455B)	Waste or water treatment facilities
71.6(455B)	Sanitary landfills
71.7(455B)	Buildings and associated fill
71.8(455B)	Pipeline crossings
71.9(455B)	Stream bank protective devices
71.10(455B)	Boat docks
71.11(455B)	Excavations
71.12(455B)	Miscellaneous structures, obstructions, or deposits not otherwise provided for in other rules
71.13(455B)	Animal feeding operation structures

CHAPTER 72

CRITERIA FOR APPROVAL

DIVISION I

SPECIAL CRITERIA FOR VARIOUS TYPES OF FLOOD PLAIN DEVELOPMENT

72.1(455B)	Bridges and road embankments
72.2(455B)	Channel changes
72.3(455B)	Dams
72.4(455B)	Levees or dikes

72.5(455B)	Buildings
72.6(455B)	Wastewater treatment facilities
72.7(455B)	Sanitary landfills
72.8(455B)	Water supply treatment facilities
72.9(455B)	Stream protective devices
72.10(455B)	Pipeline river or stream crossings
72.11(455B)	Miscellaneous construction
72.12	Reserved
72.13(455B)	Animal feeding operation structures
72.14 to 72.29	Reserved

DIVISION II
GENERAL CRITERIA

72.30(455B)	General conditions
72.31(455B)	Variance
72.32(455B)	Protected stream information
72.33 to 72.49	Reserved

DIVISION III
PROTECTED STREAM DESIGNATION PROCEDURE

72.50(455B)	Protected streams
72.51(455B)	Protected stream designation procedure
72.52(455B)	Protected stream declassification procedure

CHAPTER 73

USE, MAINTENANCE, REMOVAL, INSPECTIONS, AND SAFETY OF DAMS

DIVISION I
USE AND MAINTENANCE OF DAMS

73.1(109,455B)	Operating plan for dams with movable structures
73.2(109,455B)	Raising or lowering of impoundment levels
73.3 to 73.9	Reserved

DIVISION II
ABANDONMENT AND REMOVAL OF DAMS

73.10(109,455B)	Abandonment prohibited
73.11(109,455B)	Removal of dams
73.12 to 73.19	Reserved

DIVISION III
INSPECTION OF DAMS

73.20(109,455B)	Scope and purposes of dam safety inspection program
73.21(109,455B)	Types of inspections; when inspections are made
73.22(109,455B)	Duty of dam owner to maintain, investigate, inspect and report
73.23(109,455B)	Special inspections and investigations
73.24(109,455B)	Inspection by others
73.25(109,455B)	Access for inspections a condition of construction approval
73.26(109,455B)	Inspection reports
73.27 to 73.29	Reserved

DIVISION IV
DESIGNATION OF UNSAFE DAMS

73.30(109,455B)	Procedures for designation of a dam as unsafe
73.31(109,455B)	Criteria for designating a dam as unsafe
73.32(109,455B)	Agency action concerning an unsafe dam

CHAPTER 74

Reserved

CHAPTER 75

MANAGEMENT OF SPECIFIC FLOOD PLAIN AREAS

- 75.1(455B) Applicability and purposes of chapter
- 75.2(455B) Flooding characteristics
- 75.3(455B) Area of regulation
- 75.4(455B) Establishment of a floodway
- 75.5(455B) Minimum standards for flood plain and floodway uses
- 75.6(455B) Preexisting nonconforming development and associated uses
- 75.7(335,414,455B) Delegation of authority to local governments by approval of local regulations
- 75.8(335,414,455B) Review and approval of variances from local regulations
- 75.9(335,414,455B) Notice of proposed department flood plain management order or proposed local flood plain regulation

CHAPTER 76

FEDERAL WATER RESOURCE PROJECTS

- 76.1(455B) Referral of federal project
- 76.2(455B) Solicitation of comments
- 76.3(455B) Hearing
- 76.4(455B) Formulation of comments
- 76.5(455B) Transmittal of comments
- 76.6(455B) Other coordination

CHAPTERS 77 to 79

Reserved

TITLE VI

CERTIFICATION OF OPERATORS

CHAPTER 80

Reserved

CHAPTER 81

OPERATOR CERTIFICATION: PUBLIC WATER SUPPLY SYSTEMS
AND WASTEWATER TREATMENT SYSTEMS

- 81.1(455B) Definitions
- 81.2(455B) General
- 81.3(455B) Wastewater treatment plant grades
- 81.4(455B) Water treatment plant grades
- 81.5(455B) Water distribution system grades
- 81.6(455B) Grade A classification
- 81.7(455B) Operator education and experience qualifications
- 81.8(455B) Certification and examination fees
- 81.9(455B) Examinations
- 81.10(455B) Certification by examination
- 81.11(455B) Certification by reciprocity
- 81.12(455B) Restricted and temporary certification
- 81.13(455B) Certification renewal
- 81.14(455B,272C) Continuing education
- 81.15(455B) Upgrading of certificates
- 81.16(455B) Operator by affidavit
- 81.17(455B,272C) Disciplinary actions

CHAPTER 82
WELL CONTRACTOR CERTIFICATION

82.1(455B)	Definitions
82.2(455B)	General
82.3(455B)	Classification of well contractors
82.4 and 82.5	Reserved
82.6(455B)	Experience requirements
82.7(455B)	Certification and examination fees
82.8(455B)	Examinations
82.9(455B)	Certification by examination
82.10(455B)	Certification renewal
82.11(455B)	Continuing education
82.12(455B)	Certified well contractor obligations
82.13(455B)	Disciplinary actions
82.14(455B,272C)	Revocation of certificates

CHAPTER 83
LABORATORY CERTIFICATION

PART A
GENERAL

83.1(455B)	Authority, purpose, and applicability
83.2(455B)	Definitions

PART B
CERTIFICATION PROCESS

83.3(455B)	Application for laboratory certification
83.4(455B)	Procedure for initial certification for laboratories analyzing solid waste and contaminated site program parameters
83.5(455B)	Procedures for certification of new laboratories or changes in certification
83.6(455B)	Laboratory recertification
83.7(455B)	Criteria and procedure for provisional, suspended, and revoked laboratory certification

CHAPTERS 84 to 89
Reserved

TITLE VII
WATER POLLUTION CONTROL STATE REVOLVING FUND

CHAPTER 90
SCOPE OF TITLE — DEFINITIONS — FORMS

90.1(455B)	Scope of title
90.2(455B)	Definitions
90.3(455B)	Forms

CHAPTER 91
CRITERIA FOR RATING AND RANKING PROJECTS
FOR THE WATER POLLUTION CONTROL STATE REVOLVING FUND

91.1(455B)	Statutory authority
91.2(455B)	Scope of title
91.3(455B)	Purpose
91.4 and 91.5	Reserved
91.6(455B)	General information—priority rating system
91.7	Reserved
91.8(455B)	Project priority rating system

CHAPTER 92

CLEAN WATER STATE REVOLVING FUND

92.1(455B)	Statutory authority
92.2(455B)	Scope of title
92.3	Reserved
92.4(455B)	General policy
92.5	Reserved
92.6(455B)	Intended use plan management
92.7(455B)	Point source project procedures
92.8(455B)	Point source project requirements

CHAPTER 93

NONPOINT SOURCE POLLUTION CONTROL SET-ASIDE PROGRAMS

93.1(455B,466)	Statutory authority
93.2(455B,466)	Scope of title
93.3(455B,466)	Purpose
93.4(455B,466)	Onsite wastewater system assistance program
93.5(455B)	Livestock water quality facilities requirements
93.6(455B)	Local water protection project requirements
93.7(455B)	General nonpoint source project requirements

CHAPTERS 94 to 99

Reserved

TITLE VIII

*SOLID WASTE MANAGEMENT
AND DISPOSAL*

CHAPTER 100

SCOPE OF TITLE — DEFINITIONS — FORMS — RULES OF PRACTICE

100.1(455B,455D)	Scope of title
100.2(455B,455D)	Definitions
100.3(17A,455B)	Forms and rules of practice
100.4(455B)	General conditions of solid waste disposal
100.5(455B)	Disruption and excavation of sanitary landfills or closed dumps

CHAPTER 101

SOLID WASTE COMPREHENSIVE PLANNING REQUIREMENTS

101.1(455B,455D)	Purpose
101.2(455B,455D)	Definitions
101.3(455B,455D)	Waste management hierarchy
101.4(455B,455D)	Duties of cities and counties
101.5(455B,455D)	Contracts with permitted agencies
101.6(455B,455D)	State volume reduction and recycling goals
101.7(455B,455D)	Base year adjustment method
101.8(455B,455D)	Submittal of initial comprehensive plans and comprehensive plan updates
101.9(455B,455D)	Review of initial comprehensive plans and comprehensive plan updates
101.10(455B,455D)	Municipal solid waste and recycling survey
101.11(455B,455D)	Online database
101.12(455B,455D)	Solid waste comprehensive plan types
101.13(455B,455D)	Types of comprehensive plan submittals to be filed
101.14(455B,455D)	Fees for disposal of solid waste at sanitary landfills

CHAPTER 102
PERMITS

102.1(455B)	Permit required
102.2(455B)	Types of permits
102.3(455B)	Applications for permits
102.4(455B)	Preparation of plans
102.5(455B)	Construction and operation
102.6(455B)	Compliance with rule changes
102.7(455B)	Amendments
102.8(455B)	Transfer of title and permit
102.9(455B)	Permit conditions
102.10(455B)	Effect of revocation
102.11(455B)	Inspection prior to start-up
102.12(455B)	Primary plan requirements for all sanitary disposal projects
102.13(455B)	Operating requirements for all sanitary disposal projects
102.14(455B)	Emergency response and remedial action plans

CHAPTER 103
SANITARY LANDFILLS: COAL COMBUSTION RESIDUE

103.1(455B)	Coal combustion residue landfills
103.2(455B)	Emergency response and remedial action plans
103.3(455B)	Coal combustion residue sanitary landfill financial assurance

CHAPTER 104
SANITARY DISPOSAL PROJECTS WITH PROCESSING FACILITIES

104.1(455B)	Scope and applicability
104.2(455B)	Dumping or holding floors or pits
104.3(455B)	Compaction equipment
104.4(455B)	Hammermills
104.5(455B)	Hydropulping or slurring equipment
104.6(455B)	Air classifiers
104.7(455B)	Metals separation equipment
104.8(455B)	Sludge processing
104.9(455B)	Storage containers and facilities
104.10(455B)	Operating requirements for all processing facilities
104.11(455B)	Closure requirements
104.12 to 104.20	Reserved
104.21(455B)	Specific design requirements
104.22(455B)	Specific operating requirements for all recycling operations
104.23(455B)	Recycling operations processing paper, cans, and bottles
104.24(455B)	Closure requirements
104.25(455B)	Operator certification
104.26(455D)	Financial assurance for solid waste processing facilities

CHAPTER 105
ORGANIC MATERIALS COMPOSTING FACILITIES

105.1(455B,455D)	General
105.2(455B,455D)	Exemptions
105.3(455B,455D)	General requirements for all composting facilities not exempt pursuant to 105.2(455B,455D)
105.4(455B,455D)	Specific requirements for yard waste composting facilities
105.5(455B,455D)	Small composting facilities receiving off-premises materials
105.6(455B,455D)	Specific requirements for composting of dead farm animals

- 105.7(455B,455D) Permit requirements for solid waste composting facilities
- 105.8(455B,455D) Permit application requirements for solid waste composting facilities
- 105.9(455B,455D) Specific operating requirements for permitted solid waste composting facilities
- 105.10(455B,455D) Operator certification for permitted solid waste composting facilities
- 105.11(455B,455D) Record-keeping requirements for solid waste composting facilities
- 105.12(455B,455D) Reporting requirements for solid waste composting facilities
- 105.13(455B,455D) Closure requirements for solid waste composting facilities
- 105.14(455B,455D) Composting facility financial assurance
- 105.15(455B,455D) Variances

CHAPTER 106

CITIZEN CONVENIENCE CENTERS AND TRANSFER STATIONS

- 106.1(455B) Compliance
- 106.2(455B,455D) Definitions
- 106.3(455B) Citizen convenience center and transfer station permits
- 106.4(455B) Citizen convenience center permit application requirements
- 106.5(455B) Citizen convenience center operations
- 106.6(455B,455D) Citizen convenience center reporting requirements
- 106.7(455B) Citizen convenience center closure requirements
- 106.8(455B) Transfer station permit application requirements
- 106.9(455B) Transfer station siting and location requirements
- 106.10(455B) Transfer station design standards
- 106.11(455B) Transfer station operating requirements
- 106.12(455B) Temporary solid waste storage at transfer stations
- 106.13(455B,455D) Transfer station record-keeping requirements
- 106.14(455B,455D) Transfer station reporting requirements
- 106.15(455B) Solid waste transport vehicle construction and maintenance requirements
- 106.16(455B) Solid waste transport vehicle operation requirements
- 106.17(455B) Transfer station closure requirements
- 106.18(455B) Citizen convenience center and transfer station financial assurance
- 106.19(455B) Emergency response and remedial action plans

CHAPTER 107

BEVERAGE CONTAINER DEPOSITS

- 107.1(455C) Scope
- 107.2(455C) Definitions
- 107.3(455C) Labeling requirements
- 107.4(455C) Redemption centers
- 107.5(455C) Redeemed containers—use
- 107.6 Reserved
- 107.7(455C) Redeemed containers must be reasonably clean
- 107.8(455C) Interpretive rules
- 107.9(455C) Pickup and acceptance of redeemed containers
- 107.10(455C) Dealer agent lists
- 107.11(455C) Refund value stated on containers—exceptions
- 107.12(455C) Education
- 107.13(455C) Refusing payment when a distributor discontinues a specific beverage product
- 107.14(455C) Payment of refund value
- 107.15(455C) Sales tax on deposits

CHAPTER 108

BENEFICIAL USE DETERMINATIONS:

SOLID BY-PRODUCTS AS RESOURCES AND ALTERNATIVE COVER MATERIAL

- 108.1(455B,455D) Purpose
- 108.2(455B,455D) Applicability and compliance
- 108.3(455B,455D) Definitions
- 108.4(455B,455D) Universally approved beneficial use determinations
- 108.5(455B,455D) Application requirements for beneficial use determinations other than alternative cover material
- 108.6(455B,455D) Requirements for beneficial uses other than alternative cover material
- 108.7(455B,455D) Record-keeping and reporting requirements for beneficial use projects other than alternative cover material
- 108.8(455B,455D) Universally approved beneficial use determinations for alternative cover material
- 108.9(455B,455D) Beneficial use determination application requirements for alternative cover material
- 108.10(455B,455D) Beneficial use of alternative cover material and state goal progress
- 108.11(455B,455D) Revocation of beneficial use determinations

CHAPTER 109

SPECIAL WASTE AUTHORIZATIONS

- 109.1(455B,455D) Purpose
- 109.2(455B,455D) Special waste authorization required
- 109.3(455B,455D) Definitions
- 109.4 Reserved
- 109.5(455B,455D) Applications
- 109.6(455B,455D) Restrictions
- 109.7(455B,455D) Landfill responsibilities
- 109.8(455B,455D) Special waste generator responsibilities
- 109.9(455B,455D) Infectious waste
- 109.10(455B,455D) Other special wastes
- 109.11(455B,455D) Conditions and requirements for the disposal of general special wastes

CHAPTER 110

Reserved

CHAPTER 111

ANNUAL REPORTS OF SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEMS

- 111.1(455J) Purpose
- 111.2(455J) Role of the department
- 111.3(455J) Applicability
- 111.4(455J) Definitions
- 111.5(455J) Submittal of annual reports
- 111.6(455J) Contents of annual reports
- 111.7(455J) Evaluation criteria
- 111.8(455J) Evaluation outcomes

CHAPTER 112

Reserved

CHAPTER 113
SANITARY LANDFILLS FOR MUNICIPAL
SOLID WASTE: GROUNDWATER PROTECTION SYSTEMS FOR THE DISPOSAL OF
NONHAZARDOUS WASTES

113.1(455B)	Purpose
113.2(455B)	Applicability and compliance
113.3(455B)	Definitions
113.4(455B)	Permits
113.5(455B)	Permit application requirements
113.6(455B)	Siting and location requirements for MSWLFs
113.7(455B)	MSWLF unit design and construction standards
113.8(455B)	Operating requirements
113.9(455B)	Environmental monitoring and corrective action requirements for air quality and landfill gas
113.10(455B)	Environmental monitoring and corrective action requirements for groundwater and surface water
113.11(455B,455D)	Record-keeping and reporting requirements
113.12(455B)	Closure criteria
113.13(455B)	Postclosure care requirements
113.14(455B)	Municipal solid waste landfill financial assurance
113.15(455B,455D)	Variances

CHAPTER 114
SANITARY LANDFILLS: CONSTRUCTION AND DEMOLITION WASTES

114.1(455B)	Scope and applicability
114.2(455B)	Permit required
114.3(455B)	Types of permits
114.4(455B)	Applications for permits
114.5(455B)	Preparation of plans
114.6(455B)	Construction and operation
114.7(455B)	Compliance with rule changes
114.8(455B)	Amendments
114.9(455B)	Transfer of title and permit
114.10(455B)	Permit conditions
114.11(455B)	Effect of revocation
114.12(455B)	Inspection prior to start-up
114.13(455B)	Primary plan requirements for all sanitary disposal projects
114.14(455B)	Hydrologic monitoring system planning requirements
114.15(455B)	Soil investigation
114.16(455B)	Hydrogeologic investigation
114.17(455B)	Hydrologic monitoring system planning report requirements
114.18(455B)	Evaluation of hydrogeologic conditions
114.19(455B)	Monitoring system plan
114.20(455B)	Sampling protocol
114.21(455B)	Monitoring well maintenance and performance reevaluation plan
114.22(455B)	Monitoring well siting requirements
114.23(455B)	Monitoring well/soil boring construction standards
114.24(455B)	Sealing abandoned wells and boreholes
114.25(455B)	Variance from design, construction, and operation standards
114.26(455B)	General requirements for all sanitary landfills
114.27(455B)	Operating requirements for all sanitary disposal projects

- 114.28(455B) Specific requirements for a sanitary landfill proposing to accept only construction and demolition waste
- 114.29(455B) Operator certification
- 114.30(455B) Emergency response and remedial action plans
- 114.31(455B) Construction and demolition wastes sanitary landfill financial assurance

CHAPTER 115

SANITARY LANDFILLS: INDUSTRIAL MONOFILLS

- 115.1(455B) Scope and applicability
- 115.2(455B) Permit required
- 115.3(455B) Types of permits
- 115.4(455B) Applications for permits
- 115.5(455B) Preparation of plans
- 115.6(455B) Construction and operation
- 115.7(455B) Compliance with rule changes
- 115.8(455B) Amendments
- 115.9(455B) Transfer of title and permit
- 115.10(455B) Permit conditions
- 115.11(455B) Effect of revocation
- 115.12(455B) Inspection prior to start-up
- 115.13(455B) Primary plan requirements for all sanitary disposal projects
- 115.14(455B) Hydrologic monitoring system planning requirements
- 115.15(455B) Soil investigation
- 115.16(455B) Hydrogeologic investigation
- 115.17(455B) Hydrologic monitoring system planning report requirements
- 115.18(455B) Evaluation of hydrogeologic conditions
- 115.19(455B) Monitoring system plan
- 115.20(455B) Sampling protocol
- 115.21(455B) Monitoring well maintenance and performance reevaluation plan
- 115.22(455B) Monitoring well siting requirements
- 115.23(455B) Monitoring well/soil boring construction standards
- 115.24(455B) Sealing abandoned wells and boreholes
- 115.25(455B) Variance from design, construction, and operation standards
- 115.26(455B) General requirements for all sanitary landfills
- 115.27(455B) Operating requirements for all sanitary disposal projects
- 115.28(455B) Specific requirements for a sanitary landfill proposing to accept a specific type of solid waste
- 115.29(455B) Operator certification
- 115.30(455B) Emergency response and remedial action plans
- 115.31(455B) Industrial monofill sanitary landfill financial assurance

CHAPTER 116

REGISTRATION OF WASTE TIRE HAULERS

- 116.1(455B,455D) Purpose
- 116.2(455B,455D) Definitions
- 116.3(455B,455D) Registration requirement
- 116.4(455B,455D) Registration form
- 116.5(455B,455D) Registration fee
- 116.6(455B,455D) Bond form
- 116.7(455B,455D) Marking of equipment
- 116.8(455B,455D) Disposition of waste tires collected
- 116.9(455B,455D) Reporting requirements

CHAPTER 117
WASTE TIRE MANAGEMENT

- 117.1(455B,455D) Purpose
- 117.2(455B,455D) Definitions
- 117.3(455B,455D) Waste tire disposal
- 117.4(455B,455D) Waste tire storage permits and requirements
- 117.5(455B,455D) Used tire storage
- 117.6(455B,455D) Waste tire processing facility permits and requirements
- 117.7(455B,455D) Financial assurance for waste tire sites
- 117.8(455B,455D) Beneficial uses of waste tires

CHAPTER 118
DISCARDED APPLIANCE DEMANUFACTURING

- 118.1(455B,455D) Purpose
- 118.2(455B,455D) Applicability and compliance
- 118.3(455B,455D) Definitions
- 118.4(455B,455D) Storage and handling of appliances prior to demanufacturing
- 118.5(455B,455D) Appliance demanufacturing permits
- 118.6(455B,455D) Appliance demanufacturing permit application requirements
- 118.7(455B,455D) Fixed facilities and mobile operations
- 118.8(455B,455D) Training
- 118.9(455B,455D) Refrigerant removal requirements
- 118.10(455B,455D) Mercury-containing component removal and disposal requirements
- 118.11(455B,455D) Capacitor removal requirements
- 118.12(455B,455D) Spills
- 118.13(455B,455D) Record keeping and reporting
- 118.14(455B,455D) Appliance demanufacturing facility closure requirements
- 118.15(455B,455D) Shredding of appliances
- 118.16(455B,455D) Appliance demanufacturing facility financial assurance requirements

CHAPTER 119
USED OIL AND USED OIL FILTERS

- 119.1(455D,455B) Authority, purpose, and applicability
- 119.2(455D,455B) Definitions
- 119.3(455D,455B) Prohibited disposal
- 119.4(455D,455B) Operational requirements for acceptance of used oil
- 119.5(455D,455B) Operational requirements for acceptance of used oil filters
- 119.6(455D,455B) Oil retailer requirements
- 119.7(455D,455B) Oil filter retailer requirements
- 119.8(455D,455B) Tanks
- 119.9(455D,455B) Locating collection sites

CHAPTER 120
LANDFARMING OF PETROLEUM CONTAMINATED SOIL

- 120.1(455B) Purpose
- 120.2(455B) Applicability and compliance
- 120.3(455B) Definitions
- 120.4(455B) Landfarming permits
- 120.5(455B) Landfarm permit application requirements
- 120.6(455B) PCS analysis and characterization
- 120.7(455B) Site exploration and suitability requirements for landfarms
- 120.8(455B) Landfarm design requirements
- 120.9(455B) Landfarm operating requirements

- 120.10(455B) Emergency response and remedial action plans
- 120.11(455B) Reporting and record-keeping requirements
- 120.12(455B) Landfarm closure
- 120.13(455B,455D) Financial assurance requirements for multiuse and single-use landfarms

CHAPTER 121

LAND APPLICATION OF WASTES

- 121.1(455B,17A) Scope of title
- 121.2(455B) Definitions
- 121.3(455B) Application for permits and forms
- 121.4(455B) Land application of solid wastes
- 121.5(455B) Land application of solid wastes for home and certain crop use
- 121.6(455B) Permit exemptions
- 121.7(455B) Permit requirements
- 121.8(455B,455D) Financial assurance requirements for land application of wastes

CHAPTER 122

CATHODE RAY TUBE DEVICE RECYCLING

- 122.1(455B,455D) Purpose
- 122.2(455B,455D) Applicability and compliance
- 122.3(455B,455D) Definitions
- 122.4(455B,455D) CRT recycling permits
- 122.5(455B,455D) Registration for CRT collection facilities
- 122.6(455B,455D) CRT collection and storage requirements for registered collection points
- 122.7(455B,455D) Record-keeping requirements for CRT collection facilities
- 122.8(455B,455D) CRT recycling facility permit application requirements
- 122.9(455B,455D) Site requirements for CRT recycling facilities
- 122.10(455B,455D) Design requirements for CRT recycling facilities
- 122.11(455B,455D) Operational requirements for permitted CRT recycling facilities
- 122.12(455B,455D) Further requirements for batteries for CRT recycling facilities
- 122.13(455B,455D) Further requirements for circuit boards for CRT recycling facilities
- 122.14(455B,455D) Further requirements for CRTs for CRT recycling facilities
- 122.15(455B,455D) Further requirements for removal and disposal of mercury-containing components for CRT recycling facilities
- 122.16(455B,455D) Further requirements for removal and disposal of PCB capacitors for CRT recycling facilities
- 122.17(455B,455D) Spills and releases at CRT recycling facilities
- 122.18(455B,455D) CRT recycling facilities that shred CRTs
- 122.19(455B,455D) Storage requirements for CRT recycling facilities
- 122.20(455B,455D) ERRAP requirements for CRT recycling facilities
- 122.21(455B,455D) Training requirements for CRT recycling facilities
- 122.22(455B,455D) Reporting requirements for CRT recycling facilities
- 122.23(455B,455D) Record-keeping requirements for CRT recycling facilities
- 122.24(455B,455D) Closure requirements for CRT recycling facilities
- 122.25(455B,455D) Financial assurance requirements for cathode ray tube (CRT) recycling facilities

CHAPTER 123

REGIONAL COLLECTION CENTERS AND MOBILE UNIT COLLECTION AND CONSOLIDATION CENTERS

- 123.1(455B,455D,455F) Purpose
- 123.2(455B,455D,455F) Definitions
- 123.3(455B,455D,455F) Requirements for satellite facilities

- 123.4(455B,455D,455F) Regional collection center and mobile unit collection and consolidation center permits
- 123.5(455B,455D,455F) Permit application requirements for regional collection centers
- 123.6(455B,455D,455F) Permit application requirements for mobile unit collection and consolidation centers
- 123.7(455B,455D,455F) Site selection
- 123.8(455B,455D,455F) Structures
- 123.9(455B,455D,455F) Staff qualifications
- 123.10(455B,455D,455F) Plans and procedures
- 123.11(455B,455D,455F) Emergency response and remedial action plans
- 123.12(455B,455D,455F) Reporting requirements
- 123.13(455B,455D,455F) Financial assurance requirements for regional collection centers and mobile unit collection and consolidation centers

CHAPTERS 124 to 129

Reserved

TITLE IX

SPILLS AND HAZARDOUS CONDITIONS

CHAPTER 130

Reserved

CHAPTER 131

NOTIFICATION OF HAZARDOUS CONDITIONS

- 131.1(455B) Definitions
- 131.2(455B) Report of hazardous conditions

CHAPTER 132

Reserved

CHAPTER 133

RULES FOR DETERMINING

CLEANUP ACTIONS AND RESPONSIBLE PARTIES

- 133.1(455B,455E) Scope
- 133.2(455B,455E) Definitions
- 133.3(455B,455E) Documentation of contamination and source
- 133.4(455B,455E) Response to contamination
- 133.5(455B,455E) Report to commission
- 133.6(455B) Compensation for damages to natural resources

CHAPTER 134

UNDERGROUND STORAGE TANK LICENSING AND CERTIFICATION PROGRAMS

PART A

CERTIFICATION OF GROUNDWATER PROFESSIONALS

- 134.1(455G) Definition
- 134.2(455G) Certification requirements
- 134.3(455G) Certification procedure
- 134.4(455G) Suspension, revocation and denial of certification
- 134.5(455G) Penalty

PART B

CERTIFICATION OF UST COMPLIANCE INSPECTORS

- 134.6(455B) Definition
- 134.7(455B) Certification requirements for UST compliance inspectors

134.8(455B)	Temporary certification
134.9(455B)	Application for inspector certification
134.10(455B)	Training and certification examination
134.11(455B)	Renewal of certification
134.12(455B)	Professional liability insurance requirements
134.13(455B)	Licensed company
134.14(455B)	Compliance inspection
134.15(455B)	Disciplinary actions
134.16(455B)	Revocation of inspector certification or company license

PART C
LICENSING OF UST PROFESSIONALS

134.17(455B)	Definitions
134.18(455B)	Applicability of Part C
134.19(455B)	General licensing requirements
134.20(455B)	License renewal procedures
134.21(455B)	Conflict of interest
134.22(455B)	Duty to report
134.23(455B)	OSHA safety requirements
134.24(455B)	Installers
134.25(455B)	Testers
134.26(455B)	Liners
134.27(455B)	Installation inspectors
134.28(455B)	Removers
134.29(455B)	Disciplinary actions

CHAPTER 135
TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR
OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

135.1(455B)	Authority, purpose and applicability
135.2(455B)	Definitions
135.3(455B)	UST systems—design, construction, installation and notification
135.4(455B)	General operating requirements
135.5(455B)	Release detection
135.6(455B)	Release reporting, investigation, and confirmation
135.7(455B)	Release response and corrective action for UST systems containing petroleum or hazardous substances
135.8(455B)	Risk-based corrective action
135.9(455B)	Tier 1 site assessment policy and procedure
135.10(455B)	Tier 2 site assessment policy and procedure
135.11(455B)	Tier 3 site assessment policy and procedure
135.12(455B)	Tier 2 and 3 site classification and corrective action response
135.13(455B)	Public participation
135.14(455B)	Action levels
135.15(455B)	Out-of-service UST systems and closure
135.16(455B)	Laboratory analytical methods for petroleum contamination of soil and water
135.17(455B)	Evaluation of ability to pay
135.18(455B)	Transitional rules
135.19(455B)	Analyzing for methyl tertiary-butyl ether (MTBE) in soil and groundwater samples
135.20(455B)	Compliance inspection of UST system

CHAPTER 136

FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

136.1(455B)	Applicability
136.2	Reserved
136.3(455B)	Definition of terms
136.4(455B)	Amount and scope of required financial responsibility
136.5(455B)	Allowable mechanisms and combinations of mechanisms
136.6(455B)	Financial test of self-insurance
136.7(455B)	Guarantee
136.8(455B)	Insurance and risk retention group coverage
136.9(455B)	Surety bond
136.10(455B)	Letter of credit
136.11(455B)	Trust fund
136.12(455B)	Standby trust fund
136.13(455B)	Local government bond rating test
136.14(455B)	Local government financial test
136.15(455B)	Local government guarantee
136.16(455B)	Local government fund
136.17(455B)	Substitution of financial assurance mechanisms by owner or operator
136.18(455B)	Cancellation or nonrenewal by a provider of financial assurance
136.19(455B)	Reporting by owner or operator
136.20(455B)	Record keeping
136.21(455B)	Drawing on financial assurance mechanisms
136.22(455B)	Release from the requirements
136.23(455B)	Bankruptcy or other incapacity of owner or operator or provider of financial assurance
136.24(455B)	Replenishment of guarantees, letters of credit, or surety bonds

CHAPTER 137

IOWA LAND RECYCLING PROGRAM AND
RESPONSE ACTION STANDARDS

137.1(455H)	Authority, purpose and applicability
137.2(455H)	Definitions
137.3(455H)	Enrollment in land recycling program
137.4(455H)	Background standards
137.5(455H)	Statewide standards
137.6(455H)	Site-specific standards
137.7(455H)	Institutional and technological controls
137.8(455H)	Site assessment
137.9(455H)	Risk evaluation/response action
137.10(455H)	Demonstration of compliance
137.11(455H)	No further action classification

CHAPTERS 138 and 139

Reserved

TITLE X
HAZARDOUS WASTE

CHAPTERS 140 to 143

Reserved

CHAPTER 144
HOUSEHOLD HAZARDOUS MATERIALS

- 144.1(455F) Scope
- 144.2(455F) Definitions
- 144.3(455F) Household hazardous materials
- 144.4(455F) Sign requirements
- 144.5(455F) Consumer information material

CHAPTER 145
HOUSEHOLD BATTERIES

- 145.1(455B,455D) Scope
- 145.2(455B,455D) Definitions
- 145.3(455B,455D) Household batteries
- 145.4(455B,455D) Recycling/disposal requirements for household batteries
- 145.5(455B,455D) Exemptions for batteries used in rechargeable consumer products

CHAPTERS 146 to 148
Reserved

CHAPTER 149
FEES FOR TRANSPORTATION, TREATMENT AND DISPOSAL OF
HAZARDOUS WASTE

- 149.1(455B) Authority, purpose and applicability
- 149.2 Reserved
- 149.3(455B) Exclusions and effect on other fees
- 149.4(455B) Fee schedule
- 149.5(455B) Form, manner, time and place of filing
- 149.6(455B) Identification, sampling and analytical requirements
- 149.7(455B) Reporting and record keeping
- 149.8(455B) Failure to pay fees
- 149.9(455B) Suspension of fees

CHAPTERS 150 and 151
Reserved

CHAPTER 152
CRITERIA FOR SITING LOW-LEVEL RADIOACTIVE
WASTE DISPOSAL FACILITIES

- 152.1(455B) Authority, purpose and scope
- 152.2(455B) Definitions
- 152.3(455B) Siting criteria

CHAPTERS 153 to 208
Reserved

CHAPTER 209
LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAMS

- 209.1(455B,455E) Goal
- 209.2(455B,455E) Purpose
- 209.3(455B,455E) Definitions
- 209.4(455B,455E) Role of the department
- 209.5(455B,455E) Funding sources
- 209.6(455B,455E) Reduced award
- 209.7(455B,455E) Fund disbursement limitations

- 209.8(455B,455E) Minimum cost share
- 209.9(455B,455E) Denial of financial assistance
- 209.10(455B,455E) Eligible costs
- 209.11(455B,455E) Ineligible costs
- 209.12(455B,455E) Applications
- 209.13(455B,455E) Selection
- 209.14(455B,455E) Written agreement
- 209.15(455B,455E) Solid waste alternatives program
- 209.16(455B,455E) Derelict building grant program

CHAPTER 210
Reserved

CHAPTER 211

FINANCIAL ASSISTANCE FOR THE COLLECTION OF HOUSEHOLD HAZARDOUS
MATERIALS AND HAZARDOUS WASTE FROM CONDITIONALLY EXEMPT SMALL
QUANTITY GENERATORS

- 211.1(455F) Purpose
- 211.2(455F) Definitions
- 211.3(455F) Role of the department
- 211.4(455F) Funding sources
- 211.5(455F) Eligible costs
- 211.6(455F) Ineligible costs
- 211.7(455F) Criteria for the selection of an RCC establishment grant
- 211.8(455F) Grant denial
- 211.9(455F) RCC and MUCCC household hazardous material disposal funding

CHAPTER 212
Reserved

CHAPTER 213

PACKAGING—HEAVY METAL CONTENT

- 213.1(455D) Purpose
- 213.2(455D) Applicability
- 213.3(455D) Definitions
- 213.4(455D) Prohibition—schedule for removal of incidental amounts
- 213.5(455D) Certification of compliance
- 213.6(455D) Exemptions
- 213.7(455D) Inspection and penalties

CHAPTER 214

HOUSEHOLD HAZARDOUS MATERIALS PROGRAM

- 214.1(455F) Scope
- 214.2(455F) Goal
- 214.3(455F) Definitions
- 214.4(455F) Role of the department of natural resources
- 214.5(455F) Funding sources
- 214.6(455F) Household hazardous materials education
- 214.7(455F) HHM education grants
- 214.8(455F) Selection of TCD event host
- 214.9(455F) TCD events
- 214.10(455F) Selection of hazardous waste contractor

CHAPTER 215

MERCURY-ADDED SWITCH RECOVERY FROM END-OF-LIFE VEHICLES

215.1(455B)	Purpose
215.2(455B)	Compliance
215.3(455B)	Definitions
215.4(455B)	Plans for removal, collection, and recovery of mercury-added vehicle switches
215.5(455B)	Proper management of mercury-added vehicle switches
215.6(455B)	Public notification
215.7(455B)	Reporting
215.8(455B)	State procurement
215.9(455B)	Future repeal of mercury-free recycling Act—implementation of national program

CHAPTER 209
LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAMS

567—209.1(455B,455E) Goal. The goal of landfill alternatives financial assistance programs is to reduce through implementation of solid waste management projects the amount of solid waste being generated and the amount of solid waste being landfilled.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.2(455B,455E) Purpose. The purpose of these programs is to provide financial assistance to applicants implementing projects and programs leading to the diversion of solid waste from sanitary landfills.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.3(455B,455E) Definitions.

“*Abandoned*” means that the building has been unoccupied for a minimum of six continuous months.

“*Asbestos-containing material*” or “*ACM*” means any material that contains more than 1 percent of asbestos.

“*Building renovation*” means repairs that stabilize or improve the structural integrity of the building, including but not limited to roof repair or replacement, building stabilization, and the tuck-pointing of exterior walls.

“*Cost share*” means the applicant’s share of the eligible costs of the proposed project.

“*Deconstruction*” means the selective dismantlement of a building for the purpose of maximizing reuse and recycling opportunities through source separation while minimizing disposal costs.

“*Demonstration project*” means a project that is innovative or new to the state of Iowa.

“*Department*” means the Iowa department of natural resources.

“*Derelict building grant eligibility*” means any county or municipal government with a population of 5,000 or fewer is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

“*Eligible costs*” means costs directly related to the project and for which financial assistance moneys may be used.

“*Financial assistance*” means monetary assistance in the form of grants, loans, or forgivable loans that is awarded under these rules to an applicant.

“*Forgivable loan*” means financial assistance that does not require repayment to the department.

“*Indirect costs*” means costs not directly arising from a specific product, function, or activity.

“*Landfill diversion rate*” means the weight of materials diverted from a sanitary landfill, divided by the total weight of the building and its contents, expressed as a percentage. Materials diverted from a sanitary landfill do not include material combusted without energy recovery or material dumped or discarded in violation of Iowa Code sections 455B.307 and 455B.307A.

“*Loan*” means an award of financial assistance with the requirement that the award be repaid including interest as applicable.

“*Overhead costs*” means expenses not chargeable to a particular part of the work or product, including but not limited to utilities, insurance, and rent.

“*Phase I environmental assessment*” means review of known environmental records and land use information about the site and vicinity.

“*Phase II environmental assessment*” means actual soil, groundwater and structural material sampling and testing to confirm or deny the presence of contamination.

“*Recipient*” means any applicant selected to receive financial assistance under these rules.

“*Sanitary landfill*” means a permitted disposal site where solid waste is buried between layers of earth.

“*Solid waste alternatives program eligibility*” means any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program (SWAP).

“Waste reduction” means practices which reduce, avoid, or eliminate the generation of solid waste at the source. Waste reduction is not merely the shifting of a waste stream from one medium to another medium.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.4(455B,455E) Role of the department. The department is responsible for the administration of funds for projects receiving financial assistance under these rules. The department will ensure that funds disbursed meet guidelines established by Iowa Code sections 455E.11(2)“a”(1)(e) and 455E.11(2)“a”(1)(f).

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.5(455B,455E) Funding sources. The department will use moneys that are appropriated by the legislature and that may be obtained from other sources for the purpose of achieving the goals outlined in these rules. The department will ensure that moneys appropriated meet both federal and state guidelines pertaining to their use.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.6(455B,455E) Reduced award. The department reserves the right to offer financial assistance in an amount less than that requested by the applicant. In the event that financial assistance offered is less than the amount requested by an applicant, the applicant may be asked to document the impact on the proposed project. Reduced awards shall be offered when the department determines that:

1. Program resources are insufficient to provide the level of financial assistance requested to all applicants to which the department intends to offer financial assistance.
2. The applicant could implement the project at a reduced level of financial assistance and achieve the project objectives and the goals of the program.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.7(455B,455E) Fund disbursement limitations. No funds shall be disbursed until the department has:

1. Determined the total estimated cost of the project;
2. Determined that financing for the cost-share amount is ensured by the recipient;
3. Received final design plans from the recipient, if applicable;
4. Received confirmation that all permits or permit amendments have been obtained by the recipient;
5. Received commitments from the recipient to implement the project;
6. Executed a written agreement with the recipient; and
7. Determined that the recipient is currently in compliance with all applicable state statutes and regulations.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.8(455B,455E) Minimum cost share. An applicant shall provide a minimum cash match for the purchase of each good and service for which department-awarded financial assistance will be used. The applicant’s minimum cost share shall be in accordance with subrule 209.16(3) for the derelict building grant program.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.9(455B,455E) Denial of financial assistance. An applicant may be denied financial assistance for any of the following reasons:

1. Funds are insufficient to award financial assistance to all qualified applicants.
2. An applicant does not meet eligibility requirements pursuant to provisions of subrule 209.15(1) for the solid waste alternatives program or subrule 209.16(1) for the derelict building grant program.
3. An applicant does not provide sufficient requested information on forms provided by the department pursuant to rule 567—209.12(455B,455E).

4. An applicant has previously received financial assistance under these rules and is determined by the department to be delinquent in repaying the loan or delinquent in submitting required documentation.

5. The goals or scope of the project is not consistent with rules 567—209.1(455B,455E) and 567—209.2(455B,455E).

6. The project does not meet the criteria of an eligible project in subrule 209.15(2) for the solid waste alternatives program or subrule 209.16(2) for the derelict building grant program.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.10(455B,455E) Eligible costs. Applicants may request, for the implementation and operation of a project, financial assistance which includes, but is not limited to, funds for the purpose of:

1. Purchase and installation of waste reduction equipment;
2. Purchase and installation of collection, processing, or hauling equipment;
3. Development, printing and distribution of educational materials;
4. Planning and implementation of educational forums, including but not limited to workshops;
5. Materials and labor for construction, deconstruction, or renovation of buildings;
6. Salaries directly related to implementation and operation of the project;
7. Laboratory analysis costs; and
8. Engineering or consulting fees.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.11(455B,455E) Ineligible costs. Financial assistance shall not be provided or used for costs including, but not limited to, the following:

1. Taxes;
2. Vehicle registration;
3. Overhead expenses;
4. Indirect costs;
5. Legal costs;
6. Contingency funds;
7. Proposal preparation;
8. Contractual project administration;
9. Land acquisition;
10. Office furniture, office computers, fax machines and other office furnishings and equipment;
11. Costs for which payment has been or will be received under another federal, state or private financial assistance program;
12. Costs incurred before a written agreement has been executed between the applicant and the department; and
13. Insurance premiums or other costs associated with insuring items purchased using program funds.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.12(455B,455E) Applications. Applicants shall submit applications on forms provided by the department. Applications are considered part of the public record. Unless otherwise designated in the solid waste alternatives program application forms or the derelict building grant program application guideline forms, applications will be accepted by the department during normal business hours throughout the year.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.13(455B,455E) Selection.

209.13(1) To receive consideration under these rules, applications for financial assistance submitted to the department must be provided to the agency responsible for submitting an approved solid waste comprehensive plan or a subsequent solid waste comprehensive plan or by solid waste agencies participating in the environmental management system for agency review and comment. Applications

shall be provided to the agency in the area in which the proposed project is located or the area or areas in which the proposed project will be implemented.

209.13(2) The department shall coordinate evaluation of applications, and applicants will be awarded financial assistance based on review committee recommendations.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.14(455B,455E) Written agreement. Recipients shall enter into a contract with the department for the purposes of implementing the project for which financial assistance has been awarded. The agreement shall be signed by the appropriate department signatory and the recipient's authorized signatory. Conditions to successfully implement and manage agreements shall be expressed in the signed agreement. The department may terminate agreements and seek the return of funds released under the agreement for failure by the recipient to perform under the terms and conditions of the agreement. Amendments to agreements may be adopted by mutual written consent of the department and the recipient.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.15(455B,455E) Solid waste alternatives program. Financial assistance awarded under the solid waste alternatives program shall be used to implement activities that support the practical and beneficial use of solid waste materials and for activities leading to a reduction in the reliance on sanitary landfills for disposal of solid waste.

209.15(1) Eligible applicants. Any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program.

209.15(2) Eligible projects. The department may provide financial assistance to applicants for the following types of projects that are consistent with the goal and purpose of this program:

a. Best practices — practices and programs that will move Iowa toward long-term pollution prevention, waste reduction and recycling sustainability;

b. Education — practices and programs that are consistent with a coordinated statewide message on pollution prevention, waste reduction, and recycling to ensure ongoing support of these integrated solid waste management activities; and

c. Market development — practices and programs that develop a demand for value-added recyclables sufficient to provide increased and stable commodity markets.

209.15(3) Type of financial assistance. The type of financial assistance (forgivable loan, zero interest loan, low-interest loan) offered to an applicant is dependent upon factors such as, but not limited to, the amount of program funds awarded, level of new landfill diversion, profit generation and project uniqueness. The department reserves the right to offer any combination of types of financial assistance to any selected project.

209.15(4) Loans. The term of all loans executed under these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. The written agreement between the department and the recipient will establish other conditions or terms needed to manage or implement the project.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

567—209.16(455B,455E) Derelict building grant program. Financial assistance awarded under the derelict building grant program is available to communities of 5,000 or fewer to help improve the attractiveness and appearance of their jurisdictions by providing financial assistance for eligible projects. Each project must have a landfill diversion component.

209.16(1) Eligible applicants. Any county or municipal government with a population of 5,000 or fewer is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

209.16(2) Eligible projects. A community's building is eligible for the program if the building meets the following criteria:

a. The building is an abandoned commercial or public building of which a local government has ownership or an intent to own.

b. The building is not on the National Register of Historic Places.

209.16(3) Eligible activities and amount of financial assistance. The eligible activities and amount of financial assistance for each are:

a. Asbestos-containing material inspections: 100 percent reimbursement for inspection costs conducted by a state of Iowa-licensed asbestos contractor.

b. Abatement of asbestos-containing material: 100 percent reimbursement, not to exceed \$10,000, for abatement of ACM performed by a state of Iowa-licensed asbestos contractor. A 50 percent cost share is required for those costs exceeding \$10,000.

c. Structural engineering analysis: 100 percent reimbursement not to exceed \$1,500 for a structural engineering analysis conducted by a licensed structural engineer or architectural historian to determine the ability to renovate the building. The recipient is responsible for all costs exceeding \$1,500.

d. Phase I environmental assessment: 100 percent reimbursement not to exceed \$3,000 for conducting a Phase I environmental assessment. The recipient is responsible for all costs exceeding \$3,000.

e. Phase II environmental assessment: 50 percent reimbursement not to exceed \$2,500 for conducting a Phase II environmental assessment. The recipient is responsible for all costs exceeding \$5,000. The need for this assessment is determined by the results of the Phase I environmental assessment and involves the sampling of structure components, soil, and groundwater to confirm or deny the presence of contamination.

f. Building renovation: 50 percent reimbursement not to exceed \$50,000 for renovation costs, including but not limited to:

- (1) Restoration or removal of materials for reuse, either at the site or off site, or for recycling.
- (2) Roof repair or replacement.
- (3) Building stabilization.
- (4) Tuck-pointing of exterior walls.

g. Deconstruction: 50 percent reimbursement not to exceed \$50,000 for costs related to deconstruction. All deconstruction projects must achieve a minimum landfill diversion rate of 30 percent of the structure by weight to receive reimbursement for deconstruction costs.

209.16(4) Deconstruction cost-share incentive. For every additional 10 percent above 30 percent of landfill diversion by weight that is documented upon completion of the project, the applicant's cost share is reduced by 5 percent and the grant award amount will increase by 5 percent. The maximum grant award for deconstruction projects shall not exceed \$75,000.

[ARC 2314C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code sections 455B.301A and 455E.11.

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[Filed 3/25/94, Notice 1/19/94—published 4/13/94, effective 5/18/94]

[Filed 3/19/99, Notice 1/13/99—published 4/7/99, effective 5/12/99]

[Filed ARC 2314C (Notice ARC 2140C, IAB 9/16/15), IAB 12/23/15, effective 1/27/16]

CHAPTER 5
FAIR INFORMATION PRACTICES

605—5.1(17A) Adoption by reference. The homeland security and emergency management department hereby adopts the fair information practices segment of the Uniform Rules on Agency Procedure, which are found on the general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf> and which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(official or body issuing these rules)” insert “Homeland Security and Emergency Management Department”.
2. In lieu of the words “(insert agency head)” insert “director”.
3. In lieu of the words “(insert agency name and address)” insert “Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324”.
4. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)” insert the words “at any time from 9 a.m. to 12 noon and from 1 to 4 p.m., Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time”.
5. In lieu of the words “(specify time period)” insert the words “30 minutes”.
6. In lieu of the words “(designate office)” insert the words “Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324”.
7. Delete the words “(and, where applicable, the time period during which the record may be disclosed)”.
8. Delete the words “(Additional requirements may be necessary for special classes of records.)”.
9. Insert at the end of rule 605—5.7(17A,22) the following new sentence: “For federal records maintained by the homeland security and emergency management department, a subject will provide a Privacy Act release in accordance with the requirements of Title 5 United States Code, Section 552, in writing, and signed by the subject of the record.”
10. Delete the words “(Each agency should revise its forms to provide this information.)”.
11. Insert at the end of rule 605—5.8(17A,22) the following new sentence: “For federal records and forms, the United States government's determination of routine use and the consequences of failure to provide required or optional information as requested shall be provided to the supplier of the information.”
12. Insert the following new rule:
[ARC 2324C, IAB 12/23/15, effective 1/27/16]

605—5.9(17A,22) Federal records. Pursuant to Iowa Code section 22.9, the department finds that maintenance, use, or disclosure of federal records described in this rule, except as allowed by federal law and regulation, would result in denial of United States government funds, services and essential information that would otherwise definitely be available and that have been available to the department in the past. The department has authority to enter into agreements and contracts to obtain funds pursuant to Iowa Code chapter 29C. The department makes such agreements and contracts with the Federal Emergency Management Agency (FEMA) under the authority of Public Law 93-288 (the Robert T. Stafford Disaster Relief and Emergency Assistance Act) and an Emergency Management Performance Grant Agreement which specify categories of records and information that must be kept confidential. In addition, 44 CFR 5.71 specifies categories of records that are exempt from disclosure under 5 U.S.C. 552. These records include those containing personally identifiable information concerning applicants to individual assistance and mitigation assistance programs that are administered by the state under a presidentially declared disaster. Nuclear Regulatory Commission Title 10 CFR 73.21 relates to the physical protection of nuclear power plants and materials. This regulation requires that certain information contained in plans and documents on file with the department be kept confidential and include information concerning the physical protection at fixed sites; physical protection in transit; inspections, audits and evaluations; and correspondence insofar as it contains safeguards information.

[ARC 2324C, IAB 12/23/15, effective 1/27/16]

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[Filed ARC 2324C (Notice ARC 2216C, IAB 10/28/15), IAB 12/23/15, effective 1/27/16]

CHAPTER 6
CONTESTED CASES

605—6.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the homeland security and emergency management department.
[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.2(17A) Definitions. Except where otherwise specifically defined by law:

“*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 each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the director of the homeland security and emergency management department or the director’s designee.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the administrator did not preside.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.3(17A) Time requirements.

6.3(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

6.3(2) 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.

605—6.4(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question.

The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action which is disputed, and where the requester is represented by a lawyer identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

605—6.5(17A) Notice of hearing.

6.5(1) Delivery. Delivery of the notice of hearing 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. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

6.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the 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. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the agency or the state and of parties’ counsel where known;

- f.* Reference to the procedural rules governing conduct of the contested case proceeding;
- g.* Reference to the procedural rules governing informal settlement;
- h.* Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer (e.g., agency head, members of multimembered agency head, administrative law judge from the department of inspections and appeals); and
- i.* Notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11(1) and rule 6.6(17A), that the presiding officer be an administrative law judge.

605—6.6(17A) Presiding officer.

6.6(1) Any party 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 notice of hearing which identifies or describes the presiding officer as the agency head or members of the agency.

6.6(2) The agency may deny the request only upon a finding that one or more of the following apply:

- a.* Neither the agency nor any officer of the agency under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

- b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

- 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.

6.6(3) The agency shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed.

6.6(4) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the agency. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

6.6(5) Unless otherwise provided by law, agency heads and members of multimembered agency heads, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

605—6.7(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the agency in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

605—6.8(17A) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer 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 location is chosen.

605—6.9(17A) Disqualification.

6.9(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;

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 that (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; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

6.9(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 general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. 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 6.9(3) and 6.23(9).

6.9(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.

6.9(4) If a party asserts disqualification on any appropriate grounds, including those listed in subrule 6.9(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.

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 the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 6.25(17A) and seek a stay under rule 6.29(17A).

605—6.10(17A) Consolidation—severance.

6.10(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.

6.10(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

605—6.11(17A) Pleadings.

6.11(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

6.11(2) Petition.

a. Any petition required in a contested case proceeding shall be filed within 20 days of delivery of the notice of hearing or subsequent order of the presiding officer, unless otherwise ordered.

b. A petition shall state in separately numbered paragraphs the following:

- (1) The persons or entities on whose behalf the petition is filed;
- (2) The particular provisions of statutes and rules involved;
- (3) The relief demanded and the facts and law relied upon for such relief; and
- (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

6.11(3) Answer. An answer shall be filed within 20 days of service of the petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer 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.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

6.11(4) Amendment. Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

605—6.12(17A) Service and filing of pleadings and other papers.

6.12(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, simultaneously with their filing. Except for the original notice of hearing 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.

6.12(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.

6.12(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer as identified in the notice of hearing. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324.

6.12(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the emergency management division, 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.

6.12(5) *Proof of mailing.* Proof of mailing includes either: 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 (agency office and address) 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)

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.13(17A) Discovery.

6.13(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, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

6.13(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 6.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

6.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

605—6.14(17A) Subpoenas.

6.14(1) Issuance.

a. An agency subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. 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.

6.14(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

605—6.15(17A) Motions.

6.15(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.

6.15(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 rules of the agency or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

6.15(3) The presiding officer may schedule oral argument on any motion.

6.15(4) Motions pertaining to the hearing, except motions for summary judgment, 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 agency or an order of the presiding officer.

6.15(5) Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 237 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 at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the 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 20 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 6.28(17A) and appeal pursuant to 6.27(17A).

605—6.16(17A) Prehearing conference.

6.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

6.16(2) Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

6.16(3) In addition to the requirements of subrule 6.16(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters which will expedite the hearing.

6.16(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

605—6.17(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

6.17(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; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if 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 five days after the oral request unless that requirement is waived by 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. The agency may waive notice of such requests for a particular case or an entire class of cases.

6.17(2) In determining whether to grant a continuance, the 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.

The presiding officer may require documentation of any grounds for continuance.

605—6.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with agency rules. Unless otherwise provided, a withdrawal shall be with prejudice.

605—6.19(17A) Intervention.

6.19(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

6.19(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

6.19(3) Grounds for intervention. The movant shall demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

6.19(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

605—6.20(17A) Hearing procedures.

6.20(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

6.20(2) All objections shall be timely made and stated on the record.

6.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

6.20(4) 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.

6.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

6.20(6) Witnesses may be sequestered during the hearing.

6.20(7) 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. 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, parties may be given the opportunity to present final arguments.

605—6.21(17A) Evidence.

6.21(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.

6.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

6.21(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.

6.21(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.

6.21(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.

6.21(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.

605—6.22(17A) Default.

6.22(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.

6.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

6.22(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 rule 6.27(17A). 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.

6.22(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.

6.22(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.

6.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

6.22(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 6.25(17A).

6.22(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

6.22(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

6.22(10) 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 6.29(17A).

605—6.23(17A) Ex parte communication.

6.23(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, 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. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 6.9(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.

6.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

6.23(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

6.23(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 6.12(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.

6.23(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.

6.23(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 6.23(1).

6.23(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 6.17(17A).

6.23(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the

communication is so prejudicial that the presiding officer should be disqualified. 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 or disclosed. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

6.23(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.

6.23(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 agency. Violation of ex parte communication prohibitions by agency personnel shall be reported to the director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.24(17A) Recording costs. Upon request, the homeland security and emergency management department 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.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.25(17A) Interlocutory appeals. Upon written request of a party or on the director's own motion, the director may review an interlocutory order of the presiding officer. In determining whether to do so, the director shall weigh the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. 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.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.26(17A) Final decision.

6.26(1) When the director presides over the reception of evidence at the hearing, the director's decision is a final decision.

6.26(2) When the director does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the director within the time provided in rule 605—6.27(17A).

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.27(17A) Appeals and review.

6.27(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the director within 30 days after issuance of the proposed decision.

6.27(2) *Review.* The director may initiate review of a proposed decision on the director's own motion at any time within 30 days following the issuance of such a decision.

6.27(3) Notice of appeal. An appeal of a proposed decision is initiated by filing a timely notice of appeal with the director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

6.27(4) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the 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 director may remand a case to the presiding officer for further hearing, or the director may preside at the taking of additional evidence.

6.27(5) Scheduling. The director shall issue a schedule for consideration of the appeal.

6.27(6) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The director may resolve the appeal on the briefs or provide an opportunity for oral argument. The director may shorten or extend the briefing period as appropriate.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.28(17A) Applications for rehearing.

6.28(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

6.28(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 subrule 6.27(4), the applicant requests an opportunity to submit additional evidence.

6.28(3) Time of filing. The application shall be filed with the director within 20 days after issuance of the final decision.

6.28(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. If the application does not contain a certificate of service, the homeland security and emergency management department shall serve copies on all parties.

6.28(5) Disposition. Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.29(17A) Stays of agency actions.

6.29(1) When available.

a. Any party to a contested case proceeding may petition the director for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The director may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the director for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

6.29(2) When granted. In determining whether to grant a stay, the presiding officer or director shall consider the factors listed in Iowa Code section 17A.19(5) “c.”

6.29(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the homeland security and emergency management department or any other party.
[ARC 2325C, IAB 12/23/15, effective 1/27/16]

605—6.30(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. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

605—6.31(17A) Emergency adjudicative proceedings.

6.31(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the agency may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency by emergency adjudicative order. Before issuing an emergency adjudicative order the agency shall consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the agency is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated by the agency is necessary to avoid the immediate danger.

6.31(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 in the agency's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by 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;
- (4) First-class mail to the last address on file with the agency; or
- (5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the agency shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

6.31(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the agency shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

6.31(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which agency proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further agency proceedings to a later date will be granted only in compelling circumstances upon application in writing.

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 7
LOCAL EMERGENCY MANAGEMENT

[Prior to 4/18/90, Public Defense Department[650], Ch 7]

[Prior to 5/12/93, Disaster Services Division[607], Ch 7]

605—7.1(29C) Scope and purpose. These rules apply to each local emergency management commission as provided for in Iowa Code section 29C.9. These rules are intended to establish standards for emergency management and to provide local emergency management commissions with the criteria to assess and measure their capability to mitigate against, prepare for, respond to, and recover from emergencies or disasters.

605—7.2(29C) Definitions. For purposes of this chapter, the following definitions will apply:

“*Commission*” means a local emergency management commission or joint emergency management commission.

“*Local emergency management agency*” means a countywide, joint county-municipal agency organized to administer this chapter under the authority of a commission.

“*Shall*” indicates a mandatory requirement.

“*Should*” indicates a recommendation or that which is advised but not required.

[ARC 0129C, IAB 5/30/12, effective 7/4/12]

605—7.3(29C) Local emergency management commission.

7.3(1) The county board of supervisors, city councils, and sheriff in each county shall cooperate with the homeland security and emergency management department to establish a local emergency management commission to carry out the provisions of Iowa Code chapter 29C.

a. The local commission shall be named the (county name) county emergency management commission.

b. The commission shall be comprised of the following members:

(1) A member of the county board of supervisors.

(2) The county sheriff.

(3) The mayor from each city within the county.

c. The commission is a municipality as defined in Iowa Code section 670.1.

d. A commission member may designate an alternate to represent the designated entity. For any activity relating to Iowa Code section 29C.17, subsection 2, or Iowa Code chapter 24, participation shall only be by a commission member or a designated alternate that is an elected official for the same designated entity.

7.3(2) Local commission bylaws. The commission shall develop bylaws to specify, at a minimum, the following information:

a. The name of the commission.

b. The list of members.

c. The date for the commencement of operations.

d. The commission’s mission.

e. The commission’s powers and duties.

f. The manner for financing the commission and its activities and maintaining a budget therefor.

g. The manner for acquiring, holding and disposing of property.

h. The manner for electing or appointing officers and the terms of office.

i. The manner by which members may vote.

j. The manner for appointing, hiring, disciplining and terminating employees.

k. The rules for conducting meetings of the commission.

l. Any other necessary and proper rules or procedures.

The bylaws, as adopted, shall be signed by each member of the commission. The commission shall record the signed bylaws with the county recorder and shall forward a copy of the bylaws to the director of the homeland security and emergency management department.

7.3(3) Commission business. Commission business shall be conducted in compliance with Iowa Code chapter 21, "Official Meetings Open to Public," and Iowa Code chapter 22, "Examination of Public Records."

7.3(4) The commission shall have the following minimum duties and responsibilities:

a. Administration and finance.

(1) Establish and maintain a local emergency management agency responsible for the local emergency management program. The primary responsibility of this agency is to develop and maintain a comprehensive emergency management capability in cooperation with other governmental agencies, volunteer organizations, and private sector organizations. The name of this agency shall be the (county name) county emergency management agency.

(2) Determine the mission of the agency and its program.

(3) Develop and adopt a budget in accordance with the provisions of Iowa Code chapter 24 and Iowa Code section 29C.17 in support of the commission and its programs. The commission shall be the fiscal authority and the chairperson or vice chairperson shall be the certifying official for the budget.

(4) Appoint an emergency management coordinator who meets the qualifications established in subrule 7.4(3).

(5) Develop and adopt policies defining the rights and liabilities of commission employees, emergency workers and volunteers.

(6) Provide direction for the delivery of the emergency management services of planning, administration, coordination, training, exercising, and support for local governments and their departments.

(7) Coordinate emergency management activities and services among county and city governments and the private sector agencies under the jurisdiction of the commission.

b. Hazard identification, risk assessment, and capability assessment.

(1) The commission should continually identify credible hazards that may affect their jurisdiction, the likelihood of occurrence, and the vulnerability of the jurisdiction to such hazards. Hazards to be considered should include natural, technological, and human-caused.

(2) The commission should conduct an analysis to determine the consequences and impact of identified hazards on the health and safety of the public, the health and safety of responders, property and infrastructure, critical and essential facilities, public services, the environment, the economy of the jurisdiction, and government operations and obligations.

(3) The hazard analysis should include identification of vital personnel, systems, operations, equipment, and facilities at risk.

(4) The commission should identify mitigation and preparedness considerations based upon the hazard analysis.

(5) A comprehensive assessment of the emergency management program elements should be conducted periodically to determine the operational capability and readiness of the jurisdiction to address the identified hazards and risks.

c. Resource management.

(1) The commission should develop a method to effectively identify, acquire, distribute, account for, and utilize resources essential to emergency functions.

(2) The commission shall utilize, to the maximum extent practicable, the services, equipment, supplies and facilities of the political subdivisions that are members of the commission.

(3) The commission should identify resource shortfalls and develop the steps and procedures necessary to overcome such shortfalls.

(4) The commission shall, in collaboration with other public and private agencies within this state, develop written mutual aid agreements. Such agreements shall provide reciprocal disaster services and recovery aid and assistance in case of disaster too great to be dealt with by the jurisdiction unassisted. Mutual aid agreements shall be in compliance with the appropriate requirements contained in Iowa Code chapter 28E.

d. Planning.

(1) The commission shall develop a comprehensive emergency plan that is capabilities-based, multihazard and multifunctional in nature. The plan shall conform to the Comprehensive Preparedness Guide 101 as established by the Federal Emergency Management Agency.

(2) Plans shall contain the following common elements:

1. Identification of the functional roles and responsibilities of internal and external agencies, organizations, departments, and individuals during mitigation, preparedness, response and recovery.

2. Establishment and identification of lines of authority for those agencies, organizations, departments, and individuals.

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include at a minimum:

1. A complete review, and amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan must be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted to the department for approval by August 1 of each year.

2. Recovery and mitigation plans must also be reviewed, and amended as appropriate, certified and submitted to the department for approval within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster.

(4) To be certified, the plan must be adopted by the members of the commission and attested to by the chairperson and the local emergency management coordinator on a signature document as specified by the department.

(5) In addition to the standards heretofore established in paragraph 7.3(4) "d," the operations plan shall include provisions for damage assessment.

(6) Hazardous materials plans shall meet the minimum requirements of federal law, 42 U.S.C. §11003.

(7) Counties designated as risk or host counties for a nuclear facility emergency planning zone shall meet the standards and requirements as published by the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency in NUREG-0654, FEMA-REP-1, Rev. 1, March 1987.

(8) Commissions participating in or conducting exercises or experiencing real disaster incidents which require after-action and corrective action reports have 180 days from the date of the publication of the corrective action report to incorporate the corrective actions, as appropriate, into the commission's plans.

(9) Within 60 calendar days from the receipt of the plan, the department shall review plans or portions of plans submitted by a commission for approval. The department shall notify the local emergency management agency in writing of the approval or nonapproval of the plan. If the plan is not approved, the department shall state the specific standard or standards that are not being met and offer guidance on how the plan may be brought into compliance.

(10) A comprehensive emergency plan shall not be considered approved by the homeland security and emergency management department as required in Iowa Code subsection 29C.9(8) unless such plan adheres to and meets the minimum standards as established in paragraph 7.3(4) "d."

(11) Iowa Code section 29C.6 provides that state participation in funding financial assistance in a presidentially declared disaster is contingent upon the commission's having on file a state-approved, comprehensive emergency plan as provided in Iowa Code subsection 29C.9(8). Plans must be received by the department within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster for the affected jurisdiction and must be approved by the department within 240 days of the formal closing of the disaster incident period for public or private nonprofit entities within the county to be eligible to receive state financial assistance.

e. Direction, control and coordination.

(1) The commission shall execute and enforce the orders or rules made by the governor, or under the governor's authority.

(2) The commission shall establish and maintain the capability to effectively direct, control and coordinate emergency and disaster response and recovery efforts.

(3) The commission shall establish a means of interfacing on-scene management with direction and control personnel and facilities.

(4) The commission should actively support use of the Incident Command System (ICS) model by all emergency and disaster response agencies within the jurisdiction.

f. Damage assessment.

(1) The commission shall develop and maintain a damage assessment capability consistent with local, state and federal requirements and shall designate individuals responsible for the function of damage assessment.

(2) Individuals identified by the commission to perform the function of damage assessment shall be trained through a course of instruction approved by the department.

g. Communications and warning.

(1) The commission should identify a means of disseminating a warning to the public, key officials, emergency response personnel and those other persons within the jurisdiction that may be potentially affected.

(2) The commission should identify the primary and secondary means of communications to support direction, control, and coordination of emergency management activities.

h. Operations and procedures. The commission should encourage public and private agencies, which have defined responsibilities in the comprehensive emergency plan, to develop standard operating procedures, policies, and directives in support of the plan.

i. Training.

(1) The commission shall require the local emergency management coordinator to meet the minimum training requirements as established by the division and identified in subrule 7.4(4).

(2) The commission should, in conjunction with the local emergency management coordinator, arrange for and actively support ongoing emergency management related training for local public officials, emergency responders, volunteers, and support staff.

(3) Persons responsible for emergency plan development or implementation should receive training specific to, or related to, hazards identified in the local hazard analysis.

(4) The commission should encourage individuals, other than the emergency management coordinator, with emergency management responsibilities as defined in the comprehensive emergency plan, to complete, within two years of appointment, training consistent with their emergency management responsibilities.

(5) The commission should encourage all individuals with emergency management responsibilities to maintain current and adequate training consistent with their responsibilities.

j. Exercises.

(1) The commission shall ensure that exercise activities are conducted annually in accordance with local, state and federal requirements.

(2) Exercise activities should follow a progressive five-year plan that is designed to meet the needs of the jurisdiction.

(3) Local entities assigned to an exercise should actively participate and support the role of the entity in the exercise.

(4) Local entities assigned to an exercise should actively participate in the design, development, implementation, and evaluation of the exercise activity.

k. Public education and information.

(1) The commission should designate the individual or individuals who are responsible for public education and information functions.

(2) The commission should ensure a public information capability, to include:

1. Designated public information personnel trained to meet local requirements.
2. A system of receiving and disseminating emergency public information.
3. A method to develop, coordinate, and authorize the release of information.
4. The capability to communicate with functional needs populations.

(3) The commission should actively support the development of capabilities to electronically collect, compile, report, receive, and transmit emergency public information.

7.3(5) Two or more commissions. Two or more commissions may, upon review by the director and with the approval of their respective boards of supervisors, cities, and sheriffs, enter into agreements pursuant to Iowa Code chapter 28E for the joint coordination and administration of emergency management services throughout the multicounty area.

[ARC 0129C, IAB 5/30/12, effective 7/4/12; ARC 0336C, IAB 9/19/12, effective 10/24/12; ARC 2326C, IAB 12/23/15, effective 1/27/16]

605—7.4(29C) Local emergency management coordinator.

7.4(1) Each commission shall appoint a local emergency management coordinator who shall serve at the pleasure of the commission. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission's and coordinator's duties as provided in Iowa Code sections 29C.9 and 29C.10, as further described in subrule 7.3(4), and as otherwise assigned and authorized by the commission.

7.4(2) Political activity.

a. A member of a commission shall not be appointed as the local emergency management coordinator.

b. An individual serving in a full-time or part-time governmental position incompatible with the position of coordinator shall not be appointed as the emergency management coordinator.

c. Any employee of an organization for emergency management shall not become a candidate for any partisan elective office. However, the employee is not precluded from holding any nonpartisan elective office for which no pay or only token payment is received.

7.4(3) Local emergency management coordinator qualifications. Each person appointed after July 1, 1990, as a local emergency management coordinator shall meet the following requirements with regard to education, abilities, experience, knowledge and skills:

a. Demonstrate a knowledge of local, state, and federal laws and regulations pertaining to emergency management.

b. Demonstrate an understanding of communications systems, frequencies, and equipment capabilities.

c. Demonstrate a knowledge of basic accounting principles and practices.

d. Express oneself clearly and concisely, both orally and in writing.

e. Establish and maintain effective working relationships with employees, public officials, and the general public.

f. Prepare accurate reports.

g. Write plans, direct the use of resources, and coordinate emergency operations under extraordinary circumstances.

h. Exercise good judgment in evaluating situations and making decisions.

i. Coordinate with agencies at all levels of government.

j. Have graduated from an accredited four-year college or university and have two years of responsible experience in emergency management, public or business administration, public relations, military preparedness or related work; or have an equivalent combination of experience and education, substituting 30 semester hours of graduate study for each year of the required work experience to a maximum of two years; or have an equivalent combination of experience and education, substituting one year of experience in the aforementioned areas for each year of college to a maximum of four years; or be an employee with current continuous experience in the state classified service that includes the equivalent of 18 months of full-time experience as an emergency management operations officer; or be an employee with current continuous experience in the state classified service that includes the equivalent of 36 months of full-time experience as a local emergency management assistant.

7.4(4) Local emergency management coordinator continuing education requirements. Each local emergency management coordinator shall meet the following educational development requirements.

The director may extend the time frame for meeting these continuing education requirements upon request from the commission.

a. Within five years of appointment as a local emergency management coordinator, the person must complete the following study courses:

- (1) A Citizen's Guide to Disaster Assistance IS-7.
- (2) Emergency Operations Center (EOC) Management and Operations IS-775.
- (3) Emergency Manager: An Orientation to the Position IS-1.
- (4) Are You Ready? An In-depth Guide to Citizen Preparedness IS-22.
- (5) An Introduction to Hazardous Materials IS-5A.
- (6) Introduction to Incident Command System IS-100.b.
- (7) ICS for Single Resources and Initial Action Incidents IS-200.a.
- (8) Radiological Emergency Management IS-3.
- (9) Introduction to Hazard Mitigation IS-393.a.
- (10) Emergency Management Program Development.

b. Within five years of appointment as a local emergency management coordinator, the person must complete the professional development series of courses as prescribed by the Federal Emergency Management Agency.

c. Upon completion of the requirements established in subrule 7.4(4), paragraphs "a" and "b," a person must complete annually a minimum of 24 hours of state-approved emergency management training. Since completion of the annual training will follow the federal fiscal year, October 1 to September 30, the requirement to complete 24 hours of annual training will commence on the next October 1.

d. The local emergency management coordinator must document completion of courses by submitting a copy of the certificate of completion, a letter indicating satisfactory completion, or other appropriate documentation.

e. The Iowa homeland security and emergency management department, in conjunction with the Iowa Emergency Management Association, may substitute courses when deemed appropriate.

f. An emergency management coordinator who has met the baseline requirements prior to October 1, 2006, will not be required to take any of the new courses listed above to reestablish the person's baseline.

[ARC 8116B, IAB 9/9/09, effective 10/14/09; ARC 9332B, IAB 1/12/11, effective 2/16/11; ARC 0129C, IAB 5/30/12, effective 7/4/12; ARC 2326C, IAB 12/23/15, effective 1/27/16]

605—7.5(29C) Commission personnel.

7.5(1) Personnel for the commission, including the coordinator, operations officers, and emergency management assistants, shall be considered as employees of that commission.

7.5(2) The commission shall determine the personnel policies of the agency to include holidays, rate of pay, sick leave, vacation, and health benefits. The commission may adopt existing county or city policies in lieu of writing the commission's own policies.

[ARC 0129C, IAB 5/30/12, effective 7/4/12]

605—7.6(29C) Damage assessment and financial assistance for disaster recovery. Disaster-related expenditures and damages incurred by local governments, private nonprofit entities, individuals, and businesses may be reimbursable and covered under certain state and federal disaster assistance programs. Preliminary damage assessments shall be provided to the homeland security and emergency management department prior to the governor's making a determination that the magnitude and impact are sufficient to warrant a request for a presidential disaster declaration.

7.6(1) *Local preliminary damage assessment and impact statement.* The local emergency management coordinator shall be responsible for the coordination and collection of damage assessment and impact statement information immediately following a disaster that affects the jurisdiction.

7.6(2) *Damage assessment guidance and forms to be provided.* The homeland security and emergency management department will provide guidance regarding the methodologies to be used in

collecting damage assessment and impact statement information and shall provide the forms and format by which this information shall be recorded.

7.6(3) *Joint preliminary damage assessment.* Once the governor has determined that a request for a presidential disaster declaration is appropriate, joint preliminary damage assessment teams, consisting of local, state, and federal inspectors, will assess the uninsured damages and costs incurred or to be incurred in responding to and recovering from the disaster. All affected city, municipality, or county governments shall be required to provide assistance to the joint preliminary damage assessment teams for conducting damage assessments. The jurisdiction may be required to develop maps to show the damaged areas and to compile lists of names and telephone numbers of individuals, businesses, private nonprofit entities, and governmental agencies sustaining disaster response and recovery costs or damages. This joint preliminary damage assessment may be required before the request for presidential declaration is formally transmitted to the Federal Emergency Management Agency.

7.6(4) *Public assistance and hazard mitigation briefing.* In the event that a presidential disaster declaration is received, affected jurisdictions and eligible private nonprofit entities should be prepared to attend a public assistance and hazard mitigation briefing to acquire the information and documents necessary to make their formal applications for public and hazard mitigation assistance. Failure to comply with the deadlines for making application for public and mitigation assistance as established in 44 CFR Part 206 and the Stafford Act (PL 923-288) may jeopardize or eliminate the jurisdiction's or private nonprofit entity's ability to receive assistance.

7.6(5) *Forfeiture of assistance funding.* Failure to provide timely and accurate damage assessment and impact statement information may jeopardize or eliminate an applicant's ability to receive federal and state disaster assistance funds that may otherwise be available.

State participation in funding of disaster financial assistance in a presidentially declared disaster shall be contingent upon the commission's having on file a state-approved, comprehensive emergency plan which meets the standards as provided in paragraph 7.3(4) "d."

[ARC 0129C, IAB 5/30/12, effective 7/4/12; ARC 2326C, IAB 12/23/15, effective 1/27/16]

605—7.7(29C) Emergency management performance grant (EMPG) program. Emergency management is a joint responsibility of the federal government, the states, and their political subdivisions. "Emergency management" means all those activities and measures designed or undertaken to mitigate against, prepare for, respond to, or recover from the effects of a human-caused, technological, or natural hazard. The purpose of the emergency management performance grant program is to provide the necessary assistance to commissions to ensure that a comprehensive emergency system exists for all hazards.

7.7(1) *Eligibility.* Commissions may be eligible for funding under the state and emergency management performance grant program by meeting the requirements, conditions, duties and responsibilities for commissions and local emergency management coordinators established in rules 605—7.3(29C) and 605—7.4(29C). In addition, the commission shall ensure that the coordinator works an average of 20 hours per week or more toward the emergency management effort. Commissions formed under subrule 7.5(5) shall ensure that the coordinator works an average of 40 hours per week toward the emergency management effort.

7.7(2) *Application for funding.* Commissions may apply for funding under the emergency management performance grant program by entering into an agreement with the department and by completing the necessary application and forms, as published and distributed yearly to each commission by the department.

7.7(3) *Allocation and distribution of funds.*

a. The department shall allocate funds to eligible commissions within 45 days of receipt of notice from the federal Department of Homeland Security, Preparedness Directorate, Office of Grants and Training, that such funds are available. The homeland security and emergency management department shall use a formula for the allocation of funds based upon the number of eligible applicants, the part-time or full-time status of the coordinator, 50 percent equal-share base, and 50 percent population base. The

total allocation of funds for an applicant may not exceed the lesser of \$39,000 or the amount requested by the applicant.

b. The formula shall be applied in the following manner: The pass-through amount is divided equally between an equal-share base and a population base.

(1) The amount of total equal-share base dollars is divided by the total number of EMPG counties to establish a per-county average. For counties with part-time coordinators, the per-county average is reduced by 50 percent to determine the part-time county allocation. The total baseline dollar amount, minus the cumulative total dollars already allocated to part-time counties, is then divided by the total number of counties with full-time coordinators to determine the full-time county allocation.

(2) The population base amount for each county is determined by adding the populations of all counties together; then each county's population is divided by that total population to determine a percentage. The total population base dollars are then multiplied by a county's percentage to determine that county's share of the population dollars.

c. Funds will be reimbursed to commissions on a federal fiscal year, quarterly basis; and such reimbursement will be based on eligible claims made against the commission's allocation. In no case will the allocation or reimbursement of funds be greater than one-half of the total cost of eligible emergency management related expenses.

7.7(4) Compliance. The director may withhold or recover emergency management performance grant funds from any commission for its failure or its coordinator's failure to meet any of the following conditions:

- a.* Appoint a qualified coordinator.
- b.* Comply with continuing education requirements.
- c.* Adopt a comprehensive emergency plan that meets current standards.
- d.* Determine the mission of its agency.
- e.* Show continuing progress in fulfilling the commission's duties and obligations.
- f.* Conduct commission business according to the guidelines and rules established in this chapter.
- g.* Enter into and file a cooperative agreement with the department by the stipulated filing date.
- h.* Abide by state and federal regulations governing the proper disbursement and accountability for federal funds, equal employment opportunity and merit system standards.
- i.* Accomplish work specified in one or more program areas, as agreed upon in the cooperative agreement, or applicable state or federal rule or statute.
- j.* Provide the required matching financial contribution.
- k.* Expend funds for authorized purposes or in accordance with applicable laws, regulations, terms and conditions.
- l.* Respond to, or cooperate with, state efforts to determine the extent and nature of compliance with the cooperative agreement.

7.7(5) Serious nonperformance problems. If a commission cannot demonstrate achievement of agreed-upon work products, the department is empowered to withhold reimbursement or to recover funds from the commission. Corrective action procedures are designed to focus the commission's attention on nonperformance problems and to bring about compliance with the cooperative agreement. Corrective action procedures, which could lead to sanction, may be enacted as soon as the director becomes aware of serious nonperformance or noncompliance. This realization may arise from staff visits or other contacts with the local emergency management agency or commission, from indications in the commission's or coordinator's quarterly report that indicate a significant shortfall from planned accomplishments, or from the commission's or coordinator's failure to report. Financial sanctions are to be applied only after corrective action remedies fail to result in accomplishment of agreed-upon work product.

7.7(6) Corrective actions.

a. Informal corrective action. As a first and basic step to correcting nonperformance, a designated member of the homeland security and emergency management department staff will visit, call or write the local emergency management coordinator to determine the reason for nonperformance and seek an agreeable resolution.

b. Formal corrective action. On those occasions when there is considerable discrepancy between agreed-upon and actual performance and response to informal corrective action is not sufficient or agreeable, the department will take the following steps:

(1) Homeland security and emergency management department staff will review the scope of work, as agreed to in the cooperative agreement, to determine the extent of nonperformance. To focus attention on the total nonperformance issue, all instances of nonperformance will be addressed together in a single correspondence to the commission.

(2) The director will prepare a letter to the commission which will contain, at a minimum, the following information:

1. The reasons why the department believes the commission may be in noncompliance, including the specified provisions in question.

2. A description of the efforts made by the department to resolve the matter and the reasons these efforts were unsuccessful.

3. A declaration of the commission's commitment to accomplishing the work agreed upon and specified in the comprehensive cooperative agreement and its importance to the emergency management capability of the local jurisdiction.

4. A description of the exact actions or alternative actions required of the commission to bring the problem to an agreed resolution.

5. A statement that this letter constitutes the final no-penalty effort to achieve a resolution and that financial sanctions provided for in these rules will be undertaken if a satisfactory response is not received by the division within 30 days.

7.7(7) Financial sanctions. If the corrective actions heretofore described fail to produce a satisfactory resolution to cases of serious nonperformance, the director may invoke the following financial sanction procedures:

a. Send a Notice of Intention to Withhold Payment to the chairperson of the commission. This notice shall also contain notice of a reasonable time and place for a hearing, should the commission request a hearing before the director.

b. Any request by a commission for a hearing must be made in writing, to the department, within 15 days of receipt of the Notice of Intention to Withhold Payment.

c. Any hearing under the Notice of Intention to Withhold Payment shall be held before the director. However, the director may designate an administrative law judge to take evidence and certify to the director the entire record, including findings and recommended actions.

d. The commission shall be given full opportunity to present its position orally and in writing.

e. If, after a hearing, the director finds sufficient evidence that the commission has violated established rules and regulations or the terms and conditions of the cooperative agreement, the director may withhold such contributions and payments as may be considered advisable, until the failure to expend funds in accordance with said rules, regulations, terms and conditions has been corrected or the director is satisfied that there will no longer be any such failure.

f. If upon the expiration of the 15-day period stated for a hearing, a hearing has not been requested, the director may issue the findings and take appropriate action as described in paragraph 7.7(7) "e."

g. If the director finds there is serious nonperformance by the commission or its coordinator and issues an order to withhold payments to the commission as described in this rule, the commission shall not receive funds under the emergency management performance grant program for the remainder of the federal fiscal year in which the order is issued and one additional year or until such time that all issues of nonperformance have been agreeably addressed by the department and the commission.

h. Any emergency management performance grant program funds withheld or recovered by the division as a result of this process shall be reallocated at the end of the federal fiscal year to the remaining participating commissions.

[ARC 8543B, IAB 2/24/10, effective 4/14/10; ARC 0129C, IAB 5/30/12, effective 7/4/12; ARC 2326C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code sections 29C.6 and 29C.8.

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[Filed ARC 2326C (Notice ARC 2214C, IAB 10/28/15), IAB 12/23/15, effective 1/27/16]

[◇] Two or more ARCs

CHAPTER 8
CRITERIA FOR AWARDS OR GRANTS

605—8.1(29C,17A) Purpose. The homeland security and emergency management department receives and distributes funds to a variety of entities throughout the state for support of emergency management planning, training, and other initiatives. Unless otherwise prohibited by state or federal law, rule or regulation, the director may make such funds subject to competition. Where such funds are designated by the director to be competitive, the department shall ensure equal access, objective evaluation of applications for these funds, and that grant application material shall contain, at a minimum, specific content.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.2(29C,17A) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Competitive grant*” means the competitive grant application process to determine the grant award for a specified project period.

“*Department*” means the homeland security and emergency management department.

“*Director*” means the director of the homeland security and emergency management department.

“*Project*” means the activity(ies) or program(s) funded by the department.

“*Project period*” means the period of time for which the department intends to support the project without requiring the recompetition of funds.

“*Service delivery area*” means the defined geographic area for delivery of project services.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.3(29C,17A) Exceptions. The department considers funds subject to competition except in those cases where:

1. State or federal law, rule or regulation prohibits such competition.
2. The state, federal or private funding source specifies a sole source for the receipt of funds.
3. There is mutual agreement among the department and contract organizations.
4. The director designates such funds to be noncompetitive.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.4(29C,17A) Public notice of available competitive grants. When making funds available through a competitive grant application process, the department shall, at least 60 days prior to the application due date, issue a public notice in the Iowa Administrative Bulletin that identifies the availability of funds and states how interested parties may request an application packet. A written request for the packet shall serve as the letter of intent. Services, delivery areas, and eligible applicants shall be described in the public notice.

If the receipt of a grantor’s official notice of award to the department precludes a full 60-day notice in the Iowa Administrative Bulletin, the department shall nonetheless issue the public notice in the Iowa Administrative Bulletin at the earliest publication date.

In the event the publication date would not allow at least 30 days for interested parties to request and submit an application packet, the department shall notify current contractors and other interested parties of the availability of funds through press releases and other announcements.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.5(29C,17A) Requirements. Where funds are designated as competitive, the following shall be included in all grant application materials made available by the department:

1. Funding source;
2. Project period;
3. Services to be delivered;
4. Service delivery area;
5. Funding purpose;
6. Funding restrictions;
7. Funding formula (if any);

8. Matching requirements (if any);
9. Reporting requirements;
10. Performance criteria;
11. Description of eligible applicants;
12. Need for letters of support or other materials (if applicable);
13. Application due date;
14. Anticipated date of award;
15. Eligibility guidelines for those receiving the service or product and the source of those guidelines, including fees or sliding fee scales (if applicable);
16. Target population to be served (if applicable); and
17. Appeal process in the event an application is denied.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.6(29C,17A) Review process (competitive applications only). The review process to be followed in determining the amount of funds to be approved for award of a contract shall be described in the application material. The review criteria and point allocation for each element shall also be described in the grant application material.

The competitive grant application review committee shall be determined by the division administrator administering the grant or award, with oversight from the director. The review committee members shall apply points according to the established review criteria in conducting the review.

In the event competitive applications for a project receive an equal number of points, a second review shall be conducted by the director and the division administrator administering the grant or award.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.7(29C,17A) Opportunity for review and comment. Program advisory committees or related task forces of the program may be provided with an opportunity to review and comment on the criteria and point allocation prior to implementation. Exceptions may occur when the funding source to the department has already included such criteria and point allocation within the award or the time frame allowed is insufficient for such review and comment.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

605—8.8(29C,17A) Awards. Once applications have been scored and ranked, the department shall award all available funds to eligible applicants based on the ranking of their applications. Should there be more eligible applications than funds available, those remaining eligible applications shall be kept on file by the department.

In those cases in which applicants have received an award but actual project costs are less than anticipated or established in the application, remaining funds shall become deobligated funds. The department shall award deobligated funds to remaining eligible applications on file with the department. Should deobligated funds remain after satisfying all eligible applications, the department shall republish the availability of funds.

[ARC 2327C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code chapter 17A and section 29C.13.

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CHAPTER 9
IOWA COMPREHENSIVE PLAN

605—9.1(29C) Description. Iowa Code section 29C.8 requires the director of the homeland security and emergency management department to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

Part A: Iowa Emergency Response Plan

Part B: Iowa Hazard Mitigation Plan

Part C: Iowa Disaster Recovery Plan

Part D: Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records)

[ARC 2328C, IAB 12/23/15, effective 1/27/16]

605—9.2(29C) Part A: Iowa Emergency Response Plan. The Part A: Iowa Emergency Response Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted, published, and maintained by the department. Part A details the state government response to a wide range of natural, technological or human-caused disasters.

1. A copy of Part A will be placed in the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. Part A shall be distributed to state agencies and departments that have been assigned emergency functions and to all local emergency management agencies.

3. The Iowa Emergency Response Plan serves as the state disaster emergency response document.

4. The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list.

5. Part A shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

[ARC 2328C, IAB 12/23/15, effective 1/27/16]

605—9.3(29C) Part B: Iowa Hazard Mitigation Plan. The Part B: Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2013, published, and maintained by the department. Part B details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

1. A copy of Part B will be placed in the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. Part B shall be distributed to state agencies and departments that have participated in the writing of the plan or are assigned hazard mitigation functions and to all local emergency management agencies.

3. The Iowa Hazard Mitigation Plan serves as the state hazard mitigation document and demonstrates the state's commitment to reduce risks from natural, technological, and human-caused hazards and serves as a guide for the commitment of resources to reducing the effects of natural, technological, and human-caused hazards.

4. The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part B shall be reviewed and amended as appropriate at a minimum of every three years.

5. Part B shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

[ARC 9149B, IAB 10/6/10, effective 9/17/10; ARC 9244B, IAB 12/1/10, effective 1/5/11; ARC 1241C, IAB 12/11/13, effective 1/15/14; ARC 2328C, IAB 12/23/15, effective 1/27/16]

605—9.4(29C) Part C: Iowa Disaster Recovery Plan. The Part C: Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on March 20, 2008,

published, and maintained by the department. Part C details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

1. A copy of Part C will be placed in the state library located in the Ola Babcock Miller Building, 1112 East Grand Avenue, Des Moines, Iowa.

2. Part C shall be distributed to state agencies and departments that have been assigned recovery functions and to all local emergency management agencies.

3. The Iowa Disaster Recovery Plan serves as the state disaster recovery document.

4. The department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the department distribution list. Part C shall be reviewed and amended as appropriate at a minimum of every three years.

5. Part C shall be available for public view at the Homeland Security and Emergency Management Department, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa.

[ARC 2328C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code section 29C.8.

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¹ Effective date of Chapter 6 delayed by the Administrative Rules Review Committee for 70 days pursuant to Iowa Code section 17A.4.

CHAPTER 11
REPAIR, CALIBRATION, AND MAINTENANCE OF RADIOLOGICAL MONITORING,
DETECTION, AND SURVEY EQUIPMENT

The homeland security and emergency management department operates a licensed radiological maintenance facility for the purpose of calibrating, repairing and performing the routine maintenance of radiological detection equipment. Iowa Code sections 23A.2 and 29C.8 provide that the department may enter into contracts and charge fees for performance of these services.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.1(29C) Purpose. The homeland security and emergency management department shall establish fees to be charged for the performance of the calibration, repair and maintenance of radiological detection equipment.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.2(29C) Definitions. For the purposes of interpreting these rules, the following definitions are applicable.

“Calibration” means the determination of the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or the strength of a source of radiation relative to a standard.

“License” means a license issued by the Iowa department of public health in accordance with rules established by that agency.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

“Radiological detection equipment” means equipment used for the monitoring, detection, and surveying of radioactive materials and may include, but is not limited to, surveying instruments, dosimeters and calibrators.

“Surveying” means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examination, and measurements of levels of radiation or concentrations of radioactive material present.

605—11.3(29C) Standards of service. Calibration, repair and maintenance services will be performed in accordance with established rules and standards as published by the Iowa department of public health in 641—Chapters 38 through 45.

605—11.4(29C) Contracts for services. The department may enter into contracts with public and private entities for the purposes of providing radiological detection equipment, calibration, repair, and maintenance services. Such contracts will specify, at a minimum:

1. The duration of the contract.
2. The services to be performed.
3. Fees or the manner by which fees will be established.
4. The permissible methods for partial or complete termination of the contract.
5. Any other necessary and proper matters.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.5(29C) Application of fees. In instances where the department has not previously entered into a contract with a public or private entity, the department will assess a fee for the performance of calibration, repair, and maintenance services it provides for radiological detection equipment and instruments not owned by the department or owned by the department but used for other than the department’s specified purpose.

The department will not assess a fee for the performance of calibration, repair, and maintenance services for radiological detection equipment and instruments:

1. Used in the administration and operation of the department's radiological emergency preparedness program.
2. Used by hazardous materials response teams recognized by the department.
3. Otherwise owned by the department and used for its express purposes.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.6(29C) Fees. Unless otherwise specified by contract, the department will charge the following fees for the performance of its services:

Calibration Fees:

One radiation instrument and one radiation detector	\$70
Each additional radiation detector	\$20
Each dosimeter	\$10

Repair Fees:

Hourly rate	\$70
Parts	Cost plus 15 percent

The department will also assess a fee to recover actual shipping expenses, to include insurance coverage for the equipment being shipped.

Estimates will be given for instruments that are in need of repair. The customer will have the option of having the instrument repaired at the established rates or may have the instrument returned, at which time shipping expenses will be charged.

The department may offer to replace equipment with like equipment that is fully functional and that has been properly calibrated, in lieu of making calibrations or the necessary repairs. If the customer accepts this offer, the fee charged is the fee that would normally be charged for the calibration or repair of the instrument or dosimeter.

[ARC 8119B, IAB 9/9/09, effective 10/14/09; ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.7(29C) Returned check and late fees. Applicable fees are due to the department within 30 days from the date of invoice. Persons who fail to pay required fees to the department are subject to the following penalties:

1. Fifteen dollars for each payment received by the department in accordance with these rules, for which insufficient funds are available to fulfill the obligation of such payment to the department.
2. Fifteen dollars for each month for which a payment is overdue, or for each additional month for which insufficient funds are available to fulfill the obligation of such payment to the department.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

605—11.8(29C) Records and reports. The department will maintain records and file reports regarding the calibration, maintenance, and repair of radiological detection equipment, in accordance with the requirements set forth in 641—Chapter 40.

[ARC 2329C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code section 23A.2, subsection 10, and Iowa Code section 29C.8.

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CHAPTER 12
HOMELAND SECURITY AND EMERGENCY RESPONSE TEAMS

605—12.1(29C) Purpose. The duties of the director of the homeland security and emergency management department include the development and ongoing operation of homeland security and emergency response teams to be deployed by the state to supplement and enhance local resources during times of disaster and emergency. These rules are intended to specify how teams and team members will be designated, minimum standards that shall be maintained, and the use of the teams.

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

605—12.2(29C) Definitions.

“Director” means the director of the homeland security and emergency management department.

“Governor’s disaster proclamation” means the proclamation of disaster emergency issued by the governor in accordance with Iowa Code section 29C.6.

“Homeland security advisory committee” means the advisory committee created by the director for the purpose of providing advice on public safety response issues within Iowa.

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

605—12.3(29C) Homeland security and emergency response teams.

12.3(1) The director shall issue requests to create homeland security and emergency response teams based on identified needs, on recommendations from the homeland security advisory committee, and at the request of the governor.

12.3(2) Each team shall be designated by the director. To be eligible for designation, a team shall provide a written application to the director that details the following information:

- a. Type of assistance that the team provides.
- b. Emergency response team information.
 - (1) Team name.
 - (2) Team location.
 - (3) 24/7 contact information and procedures.
 - (4) Team agency, including head of agency and contact information.
 - (5) Team commander and assistant commander, including contact information.
 - (6) Title, names, and responsibilities of deployable response personnel assigned to the team.
- c. Listing of applicable local, state, and national standards and certifications to which team members are trained and certified.
- d. Detailed listing of the team’s major response assets that are related to the team’s mission. The listing shall provide details related to self-sufficiency including the amount of time the team can remain self-sufficient.
- e. Listing of communications assets, including radio frequencies used and any interoperability capabilities.
- f. An estimate of the time required to assemble the team members and assets and deploy upon the request of the director or governor.

12.3(3) Upon receipt of the written application from the team, the director shall review the application. The director may seek additional information from the team. The team shall provide the requested information in a timely fashion.

12.3(4) Following approval of the application, the director shall issue a letter formally designating the team as an “Iowa homeland security and emergency response team” in accordance with Iowa Code section 29C.8. The director may enter into an agreement with the team in accordance with Iowa Code chapter 28E.

12.3(5) Upon acceptance as a homeland security and emergency response team, the team shall routinely update all records to accurately reflect membership rosters and major assets at the team’s disposal. The team shall update records anytime personnel are added to or removed from the team.

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

605—12.4(29C) Use of homeland security and emergency response teams.

12.4(1) A designated team shall be deployed as a state asset only by a directive from the director or pursuant to a governor's disaster proclamation, unless the sponsoring agency's response team is needed to perform emergency services within its own jurisdiction.

12.4(2) A designated team may be deployed as a state asset to supplement and enhance disrupted or overburdened local emergency and disaster operations. A team may also be deployed as a state asset to other states pursuant to the interstate emergency management assistance compact as described in Iowa Code section 29C.21 with the concurrence of the sponsoring agency.

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

605—12.5(29C) Homeland security and emergency response team compensation.

12.5(1) A homeland security and emergency response team shall be compensated for its expenses while it is deployed as a state asset in accordance with rule 605—12.4(29C), subject to availability of funds. The application for compensation shall be in a manner as specified by the director. Compensation shall be made to the team or the team's governing jurisdiction.

12.5(2) A member of a homeland security and emergency response team listed on the team roster filed pursuant to subrule 12.3(5), while acting under the directive of the director or pursuant to a governor's disaster proclamation, shall be considered an employee of the state under Iowa Code section 669.21. Disability, workers' compensation, and death benefits for designated team members participating in a response or recovery operation initiated by the director or governor pursuant to rule 605—12.4(29C) or participating in a training or exercise activity approved by the director shall be paid by the state in a manner consistent with the provisions of Iowa Code chapter 85, 410, or 411 as appropriate. The department of administrative services shall process claims for compensable losses of deployed team members.

12.5(3) The homeland security and emergency response team's materials, equipment and supplies consumed or damaged while the team is deployed in accordance with rule 12.4(29C) shall be reimbursed on a replacement cost basis, subject to the availability of funds.

12.5(4) The director shall request funds from the executive council to address any obligations under rule 605—12.5(29C).

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

605—12.6(29C) Alternate deployment of homeland security and emergency response teams.

12.6(1) At its discretion, a homeland security and emergency response team may deploy at the direct request of a political subdivision of the state without a directive from the director or without a governor's disaster proclamation.

12.6(2) The provisions of rule 12.5(29C) do not apply to a team deployed under 12.6(29C). A team deployed upon local request may seek compensation from the political subdivision making the request and in accordance with any mutual aid agreements that may exist at the time of deployment.

12.6(3) If, during a team deployment, a governor's disaster proclamation is issued, the director shall specify the date and time when the team may be deployed under rules 605—12.4(29C) and 605—12.5(29C).

[ARC 2330C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code chapter 29C.

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PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

CHAPTERS 1 to 3

Reserved

CHAPTER 4

BOARD ADMINISTRATIVE PROCESSES

- 4.1(17A) Definitions
- 4.2(17A) Purpose of board
- 4.3(17A,147,272C) Organization of board and proceedings
- 4.4(17A) Official communications
- 4.5(17A) Office hours
- 4.6(21) Public meetings
- 4.7(147) Licensure by reciprocal agreement
- 4.8(147) Duplicate certificate or wallet card
- 4.9(147) Reissued certificate or wallet card
- 4.10(17A,147,272C) License denial
- 4.11(272C) Audit of continuing education
- 4.12(272C,83GA,SF2325) Automatic exemption
- 4.13(272C) Grounds for disciplinary action
- 4.14(272C) Continuing education exemption for disability or illness
- 4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening
- 4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt

CHAPTER 5

FEES

- 5.1(147,152D) Athletic training license fees
- 5.2(147,158) Barbering license fees
- 5.3(147,154D) Behavioral science license fees
- 5.4(151) Chiropractic license fees
- 5.5(147,157) Cosmetology arts and sciences license fees
- 5.6(147,152A) Dietetics license fees
- 5.7(147,154A) Hearing aid specialists license fees
- 5.8(147) Massage therapy license fees
- 5.9(147,156) Mortuary science license fees
- 5.10(147,155) Nursing home administrators license fees
- 5.11(147,148B) Occupational therapy license fees
- 5.12(147,154) Optometry license fees
- 5.13(147,148A) Physical therapy license fees
- 5.14(148C) Physician assistants license fees
- 5.15(147,148F,149) Podiatry license fees
- 5.16(147,154B) Psychology license fees
- 5.17(147,152B) Respiratory care license fees
- 5.18(147,154E) Sign language interpreters and transliterators license fees
- 5.19(147,154C) Social work license fees
- 5.20(147) Speech pathology and audiology license fees

CHAPTER 6
PETITIONS FOR RULE MAKING

- 6.1(17A) Petition for rule making
6.2(17A) Inquiries

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

- 7.1(17A) Adoption by reference

CHAPTER 8
DECLARATORY ORDERS
(Uniform Rules)

- 8.1(17A) Petition for declaratory order
8.2(17A) Notice of petition
8.3(17A) Intervention
8.5(17A) Inquiries

CHAPTER 9
COMPLAINTS AND INVESTIGATIONS

- 9.1(272C) Complaints
9.2(272C) Report of malpractice claims or actions or disciplinary actions
9.3(272C) Report of acts or omissions
9.4(272C) Investigation of complaints or reports
9.5(17A,272C) Issuance of investigatory subpoenas
9.6(272C) Peer review committees
9.7(17A) Appearance

CHAPTER 10
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
(Uniform Rules)

- 10.1(17A,22) Definitions
10.3(17A,22) Requests for access to records
10.5(17A,22) Request for treatment of a record as a confidential record and its withholding from examination
10.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records
10.9(17A,22) Disclosures without the consent of the subject
10.10(17A,22) Routine use
10.11(17A,22) Consensual disclosure of confidential records
10.12(17A,22) Release to subject
10.13(17A,22) Availability of records
10.14(17A,22) Personally identifiable information
10.15(22) Other groups of records routinely available for public inspection
10.16(17A,22) Applicability

CHAPTER 11
CONTESTED CASES

- 11.1(17A) Scope and applicability
11.2(17A) Definitions
11.3(17A) Time requirements
11.4(17A) Probable cause
11.5(17A) Legal review
11.6(17A) Statement of charges and notice of hearing
11.7(17A,272C) Legal representation

11.8(17A,272C)	Presiding officer in a disciplinary contested case
11.9(17A)	Presiding officer in a nondisciplinary contested case
11.10(17A)	Disqualification
11.11(17A)	Consolidation—severance
11.12(17A)	Answer
11.13(17A)	Service and filing
11.14(17A)	Discovery
11.15(17A,272C)	Issuance of subpoenas in a contested case
11.16(17A)	Motions
11.17(17A)	Prehearing conferences
11.18(17A)	Continuances
11.19(17A,272C)	Hearing procedures
11.20(17A)	Evidence
11.21(17A)	Default
11.22(17A)	Ex parte communication
11.23(17A)	Recording costs
11.24(17A)	Interlocutory appeals
11.25(17A)	Applications for rehearing
11.26(17A)	Stays of agency actions
11.27(17A)	No factual dispute contested cases
11.28(17A)	Emergency adjudicative proceedings
11.29(17A)	Appeal
11.30(272C)	Publication of decisions
11.31(272C)	Reinstatement
11.32(17A,272C)	License denial

CHAPTER 12
INFORMAL SETTLEMENT

12.1(17A,272C)	Informal settlement
----------------	---------------------

CHAPTER 13
DISCIPLINE

13.1(272C)	Method of discipline
13.2(272C)	Discretion of board
13.3(272C)	Conduct of persons attending meetings

CHAPTERS 14 and 15
Reserved

CHAPTER 16
IMPAIRED PRACTITIONER REVIEW COMMITTEE

16.1(272C)	Definitions
16.2(272C)	Purpose
16.3(272C)	Composition of the committee
16.4(272C)	Organization of the committee
16.5(272)	Eligibility
16.6(272C)	Meetings
16.7(272C)	Terms of participation
16.8(272C)	Noncompliance
16.9(272C)	Practice restrictions
16.10(272C)	Limitations
16.11(272C)	Confidentiality

CHAPTER 17
MATERIALS FOR BOARD REVIEW

17.1(147) Materials for board review

CHAPTER 18
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

18.1(17A,147,272C) Definitions
 18.2(17A,147,272C) Scope of chapter
 18.3(17A,147,272C) Applicability of chapter
 18.4(17A,147,272C) Criteria for waiver or variance
 18.5(17A,147,272C) Filing of petition
 18.6(17A,147,272C) Content of petition
 18.7(17A,147,272C) Additional information
 18.8(17A,147,272C) Notice
 18.9(17A,147,272C) Hearing procedures
 18.10(17A,147,272C) Ruling
 18.11(17A,147,272C) Public availability
 18.12(17A,147,272C) Summary reports
 18.13(17A,147,272C) Cancellation of a waiver
 18.14(17A,147,272C) Violations
 18.15(17A,147,272C) Defense
 18.16(17A,147,272C) Judicial review

CHAPTER 19
Reserved

CHAPTER 20
MILITARY SERVICE AND VETERAN RECIPROCITY

20.1(85GA,ch1116) Definitions
 20.2(85GA,ch1116) Military education, training, and service credit
 20.3(85GA,ch1116) Veteran reciprocity

BARBERS

CHAPTER 21
LICENSURE

21.1(158) Definitions
 21.2(158) Requirements for licensure
 21.3(158) Examination requirements for barbers and barber instructors
 21.4 Reserved
 21.5(158) Licensure by endorsement
 21.6 Reserved
 21.7(158) Temporary permits to practice barbering
 21.8(158) Demonstrator's permit
 21.9(158) License renewal
 21.10 Reserved
 21.11(158) Requirements for a barbershop license
 21.12(158) Barbershop license renewal
 21.13 to 21.15 Reserved
 21.16(17A,147,272C) License reactivation
 21.17(17A,147,272C) Reactivation of a barbershop license
 21.18(17A,147,272C) License reinstatement

CHAPTER 22
SANITATION

22.1(158)	Definitions
22.2(158)	Posting of sanitation rules and inspection report
22.3(147)	Display of licenses
22.4(158)	Responsibilities of barber shop owner and supervisor
22.5(158)	Building standards
22.6(158)	Barbershops in residential buildings
22.7(158)	Barbershops adjacent to other businesses
22.8(142D,158)	Smoking
22.9(158)	Personal cleanliness
22.10(158)	Universal precautions
22.11(158)	Minimum equipment and supplies
22.12(158)	Disinfecting nonelectrical instruments and equipment
22.13(158)	Disinfecting electrical instruments
22.14(158)	Instruments and supplies that cannot be disinfected
22.15(158)	Semisolids, dusters, and styptics
22.16(158)	Disposal of materials
22.17(158)	Prohibited hazardous substances and use of products
22.18(158)	Proper protection of neck
22.19(158)	Proper laundering and storage
22.20(158)	Pets
22.21(158)	Records

CHAPTER 23
BARBER SCHOOLS

23.1(158)	Definitions
23.2(158)	Licensing for barber schools
23.3(158)	School license renewal
23.4(272C)	Inactive school license
23.5	Reserved
23.6(158)	Physical requirements for barber schools
23.7(158)	Minimum equipment requirements
23.8(158)	Course of study requirements
23.9(158)	Instructors
23.10(158)	Students
23.11(158)	Attendance requirements
23.12(158)	Graduate of a barber school
23.13(147)	Records requirements
23.14(158)	Public notice
23.15(158)	Apprenticeship
23.16(158)	Mentoring program

CHAPTER 24
CONTINUING EDUCATION FOR BARBERS

24.1(158)	Definitions
24.2(158)	Continuing education requirements
24.3(158,272C)	Standards

CHAPTER 25
DISCIPLINE FOR BARBERS, BARBER INSTRUCTORS,
BARBERSHOPS AND BARBER SCHOOLS

25.1(158)	Definitions
25.2(272C)	Grounds for discipline
25.3(158,272C)	Method of discipline
25.4(272C)	Discretion of board

CHAPTERS 26 to 30
Reserved

BEHAVIORAL SCIENTISTS

CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

31.1(154D)	Definitions
31.2(154D)	Requirements for permanent and temporary licensure
31.3(154D)	Examination requirements
31.4(154D)	Educational qualifications for marital and family therapists
31.5(154D)	Clinical experience requirements for marital and family therapists
31.6(154D)	Educational qualifications for mental health counselors
31.7(154D)	Clinical experience requirements for mental health counselors
31.8(154D)	Licensure by endorsement
31.9	Reserved
31.10(147)	License renewal
31.11	Reserved
31.12(147)	Licensee record keeping
31.13 to 31.15	Reserved
31.16(17A,147,272C)	License reactivation
31.17(17A,147,272C)	License reinstatement
31.18(154D)	Marital and family therapy and mental health counselor services subject to regulation

CHAPTER 32
CONTINUING EDUCATION FOR MARITAL AND
FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

32.1(272C)	Definitions
32.2(272C)	Continuing education requirements
32.3(154D,272C)	Standards

CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS
AND MENTAL HEALTH COUNSELORS

33.1(154D)	Definitions
33.2(154D,272C)	Grounds for discipline
33.3(147,272C)	Method of discipline
33.4(272C)	Discretion of board

CHAPTERS 34 to 40
Reserved

CHIROPRACTIC

CHAPTER 41

LICENSURE OF CHIROPRACTIC PHYSICIANS

- 41.1(151) Definitions
- 41.2(151) Requirements for licensure
- 41.3(151) Examination requirements
- 41.4(151) Educational qualifications
- 41.5(151) Temporary certificate
- 41.6(151) Licensure by endorsement
- 41.7 Reserved
- 41.8(151) License renewal
- 41.9 to 41.13 Reserved
- 41.14(17A,147,272C) License reactivation
- 41.15(17A,147,272C) License reinstatement

CHAPTER 42

COLLEGES FOR CHIROPRACTIC PHYSICIANS

- 42.1(151) Definitions
- 42.2(151) Board-approved chiropractic colleges
- 42.3(151) Practice by chiropractic interns and chiropractic residents
- 42.4(151) Approved chiropractic preceptorship program
- 42.5(151) Approved chiropractic physician preceptors
- 42.6(151) Termination of preceptorship

CHAPTER 43

PRACTICE OF CHIROPRACTIC PHYSICIANS

- 43.1(151) Definitions
- 43.2(147,272C) Principles of chiropractic ethics
- 43.3(514F) Utilization and cost control review
- 43.4(151) Chiropractic insurance consultant
- 43.5(151) Acupuncture
- 43.6 Reserved
- 43.7(151) Adjunctive procedures
- 43.8(151) Physical examination
- 43.9(151) Gonad shielding
- 43.10(151) Record keeping
- 43.11(151) Billing procedures
- 43.12(151) Chiropractic assistants

CHAPTER 44

CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS

- 44.1(151) Definitions
- 44.2(272C) Continuing education requirements
- 44.3(151,272C) Standards

CHAPTER 45

DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

- 45.1(151) Definitions
- 45.2(151,272C) Grounds for discipline
- 45.3(147,272C) Method of discipline
- 45.4(272C) Discretion of board

CHAPTERS 46 to 59

Reserved

COSMETOLOGISTS

CHAPTER 60

LICENSURE OF COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS,
MANICURISTS, NAIL TECHNOLOGISTS, AND INSTRUCTORS
OF COSMETOLOGY ARTS AND SCIENCES

60.1(157)	Definitions
60.2(157)	Requirements for licensure
60.3(157)	Criteria for licensure in specific practice disciplines
60.4(157)	Practice-specific training requirements
60.5(157)	Licensure restrictions relating to practice
60.6(157)	Consent form requirements
60.7(157)	Licensure by endorsement
60.8(157)	License renewal
60.9(157)	Temporary permits
60.10 to 60.16	Reserved
60.17(17A,147,272C)	License reactivation
60.18(17A,147,272C)	License reinstatement

CHAPTER 61

LICENSURE OF SALONS AND SCHOOLS
OF COSMETOLOGY ARTS AND SCIENCES

61.1(157)	Definitions
61.2(157)	Salon licensing
61.3(157)	Salon license renewal
61.4(272C)	Inactive salon license
61.5(157)	Display requirements for salons
61.6(147)	Duplicate certificate or wallet card for salons
61.7(157)	Licensure for schools of cosmetology arts and sciences
61.8(157)	School license renewal
61.9(272C)	Inactive school license
61.10(157)	Display requirements for schools
61.11	Reserved
61.12(157)	Physical requirements for schools of cosmetology arts and sciences
61.13(157)	Minimum equipment requirements
61.14(157)	Course of study requirements
61.15(157)	Instructors
61.16(157)	Student instructors
61.17(157)	Students
61.18(157)	Attendance requirements
61.19(157)	Accelerated learning
61.20(157)	Mentoring program
61.21(157)	Graduate of a school of cosmetology arts and sciences
61.22(157)	Records requirements
61.23(157)	Classrooms used for other educational purposes
61.24(157)	Public notice

CHAPTER 62

Reserved

CHAPTER 63

SANITATION FOR SALONS AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

63.1(157)	Definitions
63.2(157)	Posting of sanitation rules and inspection report
63.3(157)	Responsibilities of salon owners
63.4(157)	Responsibilities of licensees
63.5(157)	Joint responsibility
63.6(157)	Building standards
63.7(157)	Salons in residential buildings
63.8(157)	Salons adjacent to other businesses
63.9(157)	Smoking
63.10(157)	Personal cleanliness
63.11(157)	Universal precautions
63.12(157)	Blood spill procedures
63.13(157)	Disinfecting instruments and equipment
63.14(157)	Instruments and supplies that cannot be disinfected
63.15(157)	Sterilizing instruments
63.16(157)	Sanitary methods for creams, cosmetics and applicators
63.17	Reserved
63.18(157)	Prohibited hazardous substances and use of products and equipment
63.19(157)	Proper protection of neck
63.20(157)	Proper laundering and storage
63.21(157)	Pets
63.22(157)	General maintenance
63.23(157)	Records
63.24(157)	Salons and schools providing electrology or esthetics
63.25(157)	Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas
63.26(157)	Paraffin wax

CHAPTER 64

CONTINUING EDUCATION FOR COSMETOLOGY ARTS AND SCIENCES

64.1(157)	Definitions
64.2(157)	Continuing education requirements
64.3(157,272C)	Standards

CHAPTER 65

DISCIPLINE FOR COSMETOLOGY ARTS AND SCIENCES LICENSEES,
INSTRUCTORS, SALONS, AND SCHOOLS

65.1(157,272C)	Definitions
65.2(157,272C)	Grounds for discipline
65.3(157,272C)	Method of discipline
65.4(272C)	Discretion of board
65.5(157)	Civil penalties against nonlicensees

CHAPTERS 66 to 80

Reserved

DIETITIANS

CHAPTER 81

LICENSURE OF DIETITIANS

81.1(152A)	Definitions
81.2(152A)	Nutrition care
81.3	Reserved

81.4(152A)	Requirements for licensure
81.5(152A)	Educational qualifications
81.6(152A)	Supervised experience
81.7(152A)	Licensure by endorsement
81.8	Reserved
81.9(152A)	License renewal
81.10 to 81.14	Reserved
81.15(17A,147,272C)	License reactivation
81.16(17A,147,272C)	License reinstatement

CHAPTER 82

CONTINUING EDUCATION FOR DIETITIANS

82.1(152A)	Definitions
82.2(152A)	Continuing education requirements
82.3(152A,272C)	Standards

CHAPTER 83

DISCIPLINE FOR DIETITIANS

83.1(152A)	Definitions
83.2(152A,272C)	Grounds for discipline
83.3(152A,272C)	Method of discipline
83.4(272C)	Discretion of board

CHAPTERS 84 to 99

Reserved

FUNERAL DIRECTORS

CHAPTER 100

PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,
AND CREMATION ESTABLISHMENTS

100.1(156)	Definitions
100.2(156)	Funeral director duties
100.3(156)	Permanent identification tag
100.4(142,156)	Removal and transfer of dead human remains and fetuses
100.5(135,144)	Burial transit permits
100.6(156)	Preparation and embalming activities
100.7(156)	Arranging and directing funeral and memorial ceremonies
100.8(142,156)	Unclaimed dead human remains for scientific use
100.9(144)	Disinterments
100.10(156)	Cremation of human remains and fetuses
100.11(156)	Records to be retained by a funeral establishment

CHAPTER 101

LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND
CREMATION ESTABLISHMENTS

101.1(156)	Definitions
101.2(156)	Requirements for licensure
101.3(156)	Educational qualifications
101.4(156)	Examination requirements
101.5(147,156)	Internship and preceptorship
101.6(156)	Student practicum
101.7(156)	Funeral establishment license or cremation establishment license or both establishment licenses

- 101.8(156) Licensure by endorsement
- 101.9 Reserved
- 101.10(156) License renewal
- 101.11 and 101.12 Reserved
- 101.13(272C) Renewal of a funeral establishment license or cremation establishment license or both establishment licenses
- 101.14(272C) Inactive funeral establishment license or cremation establishment license or both establishment licenses
- 101.15(17A,147,272C) License reinstatement
- 101.16 and 101.17 Reserved
- 101.18(17A,147,272C) License reactivation
- 101.19(17A,147,272C) License reinstatement

CHAPTER 102

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

- 102.1(272C) Definitions
- 102.2(272C) Continuing education requirements
- 102.3(156,272C) Standards
- 102.4 Reserved
- 102.5(83GA,SF2325) Automatic exemption

CHAPTER 103

DISCIPLINARY PROCEEDINGS

- 103.1(156) Definitions
- 103.2(17A,147,156,272C) Disciplinary authority
- 103.3(17A,147,156,272C) Grounds for discipline against funeral directors
- 103.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments
- 103.5(17A,147,156,272C) Method of discipline
- 103.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions
- 103.7(156) Order for mental, physical, or clinical competency examination or alcohol or drug screening
- 103.8(17A,147,156,272C) Informal discussion

CHAPTER 104

ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

- 104.1(156) Civil penalties against nonlicensees
- 104.2(156) Unlawful practices
- 104.3(156) Investigations
- 104.4(156) Subpoenas
- 104.5(156) Notice of intent to impose civil penalties
- 104.6(156) Requests for hearings
- 104.7(156) Factors to consider
- 104.8(156) Enforcement options

CHAPTERS 105 to 120

Reserved

HEARING AID SPECIALISTS

CHAPTER 121

LICENSURE OF HEARING AID SPECIALISTS

- 121.1(154A) Definitions
- 121.2(154A) Temporary permits

121.3(154A)	Supervision requirements
121.4(154A)	Requirements for initial licensure
121.5(154A)	Examination requirements
121.6(154A)	Licensure by endorsement
121.7	Reserved
121.8(154A)	Display of license
121.9(154A)	License renewal
121.10 to 121.13	Reserved
121.14(17A,147,272C)	License reactivation
121.15(17A,147,272C)	License reinstatement

CHAPTER 122

CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

122.1(154A)	Definitions
122.2(154A)	Continuing education requirements
122.3(154A,272C)	Standards

CHAPTER 123

PRACTICE OF HEARING AID DISPENSING

123.1(154A)	Definitions
123.2(154A)	Requirements prior to sale of a hearing aid
123.3(154A)	Requirements for sales receipt
123.4(154A)	Requirements for record keeping

CHAPTER 124

DISCIPLINE FOR HEARING AID SPECIALISTS

124.1(154A,272C)	Definitions
124.2(154A,272C)	Grounds for discipline
124.3(154A,272C)	Method of discipline
124.4(272C)	Discretion of board

CHAPTERS 125 to 130

Reserved

MASSAGE THERAPISTS

CHAPTER 131

LICENSURE OF MASSAGE THERAPISTS

131.1(152C)	Definitions
131.2(152C)	Requirements for licensure
131.3(152C)	Educational qualifications
131.4(152C)	Examination requirements
131.5(152C)	Temporary licensure of a licensee from another state
131.6(152C)	Licensure by endorsement
131.7	Reserved
131.8(152C)	License renewal
131.9 to 131.13	Reserved
131.14(17A,147,272C)	License reactivation
131.15(17A,147,272C)	License reinstatement

CHAPTER 132

MASSAGE THERAPY EDUCATION CURRICULUM

132.1(152C)	Definitions
132.2(152C)	Application for approval of massage therapy education curriculum

- 132.3(152C) Curriculum requirements
- 132.4(152C) Student clinical practicum standards
- 132.5(152C) School certificate or diploma
- 132.6(152C) School records retention
- 132.7(152C) Massage school curriculum compliance
- 132.8(152C) Denial or withdrawal of approval

CHAPTER 133

CONTINUING EDUCATION FOR MASSAGE THERAPISTS

- 133.1(152C) Definitions
- 133.2(152C) Continuing education requirements
- 133.3(152C,272C) Continuing education criteria

CHAPTER 134

DISCIPLINE FOR MASSAGE THERAPISTS

- 134.1(152C) Definitions
- 134.2(152C,272C) Grounds for discipline
- 134.3(147,272C) Method of discipline
- 134.4(272C) Discretion of board
- 134.5(152C) Civil penalties

CHAPTERS 135 to 140

Reserved

NURSING HOME ADMINISTRATORS

CHAPTER 141

LICENSURE OF NURSING HOME ADMINISTRATORS

- 141.1(155) Definitions
- 141.2(155) Requirements for licensure
- 141.3(147,155) Examination requirements
- 141.4(155) Educational qualifications
- 141.5(155) Practicum experience
- 141.6(155) Provisional license
- 141.7(155) Licensure by endorsement
- 141.8(147,155) Licensure by reciprocal agreement
- 141.9(147,155) License renewal
- 141.10 to 141.14 Reserved
- 141.15(17A,147,272C) License reactivation
- 141.16(17A,147,272C) License reinstatement

CHAPTER 142

Reserved

CHAPTER 143

CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

- 143.1(272C) Definitions
- 143.2(272C) Continuing education requirements
- 143.3(155,272C) Standards
- 143.4(155,272C) Audit of continuing education report
- 143.5(155,272C) Automatic exemption
- 143.6(272C) Continuing education exemption for disability or illness
- 143.7(155,272C) Grounds for disciplinary action

CHAPTER 144

DISCIPLINE FOR NURSING HOME ADMINISTRATORS

- 144.1(155) Definitions
- 144.2(155,272C) Grounds for discipline
- 144.3(155,272C) Method of discipline
- 144.4(272C) Discretion of board
- 144.5(155) Order for mental, physical, or clinical competency examination or alcohol or drug screening

CHAPTERS 145 to 179

Reserved

OPTOMETRISTS

CHAPTER 180

LICENSURE OF OPTOMETRISTS

- 180.1(154) Definitions
- 180.2(154) Requirements for licensure
- 180.3(154) Licensure by endorsement
- 180.4 Reserved
- 180.5(154) License renewal
- 180.6 to 180.10 Reserved
- 180.11(17A,147,272C) License reactivation
- 180.12(17A,147,272C) License reinstatement

CHAPTER 181

CONTINUING EDUCATION FOR OPTOMETRISTS

- 181.1(154) Definitions
- 181.2(154) Continuing education requirements
- 181.3(154,272C) Standards

CHAPTER 182

PRACTICE OF OPTOMETRISTS

- 182.1(154) Code of ethics
- 182.2(154,272C) Record keeping
- 182.3(154) Furnishing prescriptions
- 182.4(155A) Prescription drug orders

CHAPTER 183

DISCIPLINE FOR OPTOMETRISTS

- 183.1(154) Definitions
- 183.2(154,272C) Grounds for discipline
- 183.3(147,272C) Method of discipline
- 183.4(272C) Discretion of board

CHAPTERS 184 to 199

Reserved

PHYSICAL AND OCCUPATIONAL THERAPISTS

CHAPTER 200

LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

- 200.1(147) Definitions
- 200.2(147) Requirements for licensure
- 200.3 Reserved

200.4(147)	Examination requirements for physical therapists and physical therapist assistants
200.5(147)	Educational qualifications
200.6(272C)	Supervision requirements
200.7(147)	Licensure by endorsement
200.8	Reserved
200.9(147)	License renewal
200.10 to 200.14	Reserved
200.15(17A,147,272C)	License reactivation
200.16(17A,147,272C)	License reinstatement

CHAPTER 201

PRACTICE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

201.1(148A,272C)	Code of ethics for physical therapists and physical therapist assistants
201.2(147)	Record keeping

CHAPTER 202

DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

202.1(148A)	Definitions
202.2(272C)	Grounds for discipline
202.3(147,272C)	Method of discipline
202.4(272C)	Discretion of board

CHAPTER 203

CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

203.1(272C)	Definitions
203.2(148A)	Continuing education requirements
203.3(148A,272C)	Standards

CHAPTERS 204 and 205

Reserved

CHAPTER 206

LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

206.1(147)	Definitions
206.2(147)	Requirements for licensure
206.3(147)	Limited permit to practice pending licensure
206.4(147)	Applicant occupational therapist and occupational therapy assistant
206.5(147)	Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure
206.6(147)	Examination requirements
206.7(147)	Educational qualifications
206.8(148B)	Supervision requirements
206.9(147)	Licensure by endorsement
206.10(147)	License renewal
206.11(17A,147,272C)	License reactivation
206.12(17A,147,272C)	License reinstatement

CHAPTER 207
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 207.1(148B) Definitions
- 207.2(272C) Continuing education requirements
- 207.3(148B,272C) Standards

CHAPTER 208
PRACTICE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants
- 208.2(147) Record keeping

CHAPTER 209
DISCIPLINE FOR OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

- 209.1(148B) Definitions
- 209.2(272C) Grounds for discipline
- 209.3(147,272C) Method of discipline
- 209.4(272C) Discretion of board

CHAPTERS 210 to 219
Reserved

PODIATRISTS

CHAPTER 220
LICENSURE OF PODIATRISTS

- 220.1(149) Definitions
- 220.2(149) Requirements for licensure
- 220.3(149) Written examinations
- 220.4(149) Educational qualifications
- 220.5(149) Title designations
- 220.6(147,149) Temporary license
- 220.7(149) Licensure by endorsement
- 220.8 Reserved
- 220.9(149) License renewal
- 220.10 to 220.14 Reserved
- 220.15(17A,147,272C) License reactivation
- 220.16(17A,147,272C) License reinstatement

CHAPTER 221
LICENSURE OF ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 221.1(148F) Definitions
- 221.2(148F) Transition period
- 221.3(148F) Requirements for licensure
- 221.4(148F) Written examinations
- 221.5(148F) Educational qualifications
- 221.6(148F) Licensure by endorsement
- 221.7(148F) License renewal
- 221.8(17A,147,272C) License reactivation
- 221.9(17A,147,272C) License reinstatement

CHAPTER 222
CONTINUING EDUCATION FOR PODIATRISTS

- 222.1(149,272C) Definitions
222.2(149,272C) Continuing education requirements
222.3(149,272C) Standards

CHAPTER 223
PRACTICE OF PODIATRY

- 223.1(149) Definitions
223.2(149) Requirements for administering conscious sedation
223.3(139A) Preventing HIV and HBV transmission
223.4(149) Unlicensed graduate of a podiatric college

CHAPTER 224
DISCIPLINE FOR PODIATRISTS, ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 224.1(148F,149) Definitions
224.2(148F,149,272C) Grounds for discipline
224.3(147,272C) Method of discipline
224.4(272C) Discretion of board
224.5 Reserved
224.6(148F,149,272C) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose

CHAPTER 225
CONTINUING EDUCATION FOR ORTHOTISTS, PROSTHETISTS, AND PEDORTHISTS

- 225.1(148F) Definitions
225.2(148F,272C) Continuing education requirements
225.3(148F,272C) Standards
225.4(148F,272C) Audit of continuing education report

CHAPTERS 226 to 239
Reserved

PSYCHOLOGISTS

CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

- 240.1(154B) Definitions
240.2(154B) Requirements for licensure
240.3(154B) Educational qualifications
240.4(154B) Examination requirements
240.5(154B) Title designations
240.6(154B) Supervised professional experience
240.7(154B) Certified health service provider in psychology
240.8(154B) Exemption to licensure
240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting
240.10(147) Licensure by endorsement
240.11(147) Licensure by reciprocal agreement
240.12(85GA,ch1043) Requirements for provisional licensure
240.13(147) License renewal
240.14(17A,147,272C) License reactivation
240.15(17A,147,272C) License reinstatement

CHAPTER 241

CONTINUING EDUCATION FOR PSYCHOLOGISTS

- 241.1(272C) Definitions
- 241.2(272C) Continuing education requirements
- 241.3(154B,272C) Standards

CHAPTER 242

DISCIPLINE FOR PSYCHOLOGISTS

- 242.1(154B) Definitions
- 242.2(147,272C) Grounds for discipline
- 242.3(147,272C) Method of discipline
- 242.4(272C) Discretion of board

CHAPTERS 243 to 260

Reserved

RESPIRATORY CARE PRACTITIONERS

CHAPTER 261

LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS

- 261.1(148G,152B) Definitions
- 261.2(148G,152B) General requirements for licensure
- 261.3(152B) Additional requirements for respiratory care practitioner licensure
- 261.4(148G,152B) Additional requirements for polysomnographic technologist licensure
- 261.5(148G,152B) Requirements for dual licensure
- 261.6 and 261.7 Reserved
- 261.8(148G,152B) License renewal
- 261.9 to 261.13 Reserved
- 261.14(17A,147,272C) License reactivation
- 261.15(17A,147,272C) License reinstatement

CHAPTER 262

CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS

- 262.1(148G,152B,272C) Definitions
- 262.2(148G,152B,272C) Continuing education requirements
- 262.3(148G,152B,272C) Standards
- 262.4 Reserved
- 262.5(148G,152B,272C) Automatic exemption
- 262.6(148G,152B,272C) Grounds for disciplinary action
- 262.7(148G,152B,272C) Continuing education exemption for disability or illness

CHAPTER 263

DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS

- 263.1(148G,152B) Definitions
- 263.2(148G,152B,272C) Grounds for discipline
- 263.3(147,272C) Method of discipline
- 263.4(272C) Discretion of board

CHAPTER 264

Reserved

CHAPTER 265
PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

- 265.1(148G,152B,272C) Definitions
- 265.2(148G,152B,272C) Code of ethics
- 265.3(152B,272C) Intravenous administration
- 265.4(152B,272C) Setup and delivery of respiratory care equipment
- 265.5(152B,272C) Respiratory care as a practice
- 265.6(148G,272C) Practice of polysomnography
- 265.7(148G,152B,272C) Students
- 265.8(148G,272C) Location of polysomnography services

CHAPTERS 266 to 279
Reserved

SOCIAL WORKERS

CHAPTER 280
LICENSURE OF SOCIAL WORKERS

- 280.1(154C) Definitions
- 280.2(154C) Social work services subject to regulation
- 280.3(154C) Requirements for licensure
- 280.4(154C) Written examination
- 280.5(154C) Educational qualifications
- 280.6(154C) Supervised professional practice for the LISW
- 280.7(154C) Licensure by endorsement
- 280.8 Reserved
- 280.9(154C) License renewal
- 280.10 to 280.13 Reserved
- 280.14(17A,147,272C) License reactivation
- 280.15(17A,147,272C) License reinstatement

CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS

- 281.1(154C) Definitions
- 281.2(154C) Continuing education requirements
- 281.3(154C,272C) Standards

CHAPTER 282
PRACTICE OF SOCIAL WORKERS

- 282.1(154C) Definitions
- 282.2(154C) Rules of conduct

CHAPTER 283
DISCIPLINE FOR SOCIAL WORKERS

- 283.1(154B) Definitions
- 283.2(272C) Grounds for discipline
- 283.3(147,272C) Method of discipline
- 283.4(272C) Discretion of board

CHAPTERS 284 to 299
Reserved

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 300

LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

300.1(147)	Definitions
300.2(147)	Speech pathology and audiology services subject to regulation
300.3(147)	Requirements for licensure
300.4(147)	Educational qualifications
300.5(147)	Examination requirements
300.6(147)	Temporary clinical license
300.7(147)	Temporary permit
300.8(147)	Use of assistants
300.9(147)	Licensure by endorsement
300.10	Reserved
300.11(147)	License renewal
300.12(17A,147,272C)	Board meetings
300.13 to 300.16	Reserved
300.17(17A,147,272C)	License reactivation
300.18(17A,147,272C)	License reinstatement

CHAPTERS 301 and 302

Reserved

CHAPTER 303

CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS
AND AUDIOLOGISTS

303.1(147)	Definitions
303.2(147)	Continuing education requirements
303.3(147,272C)	Standards

CHAPTER 304

DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

304.1(147)	Definitions
304.2(272C)	Grounds for discipline
304.3(272C)	Method of discipline
304.4(272C)	Discretion of board

CHAPTERS 305 to 325

Reserved

PHYSICIAN ASSISTANTS

CHAPTER 326

LICENSURE OF PHYSICIAN ASSISTANTS

326.1(148C)	Definitions
326.2(148C)	Requirements for licensure
326.3(148C)	Temporary licensure
326.4(148C)	Licensure by endorsement
326.5	Reserved
326.6(148C)	Examination requirements
326.7(148C)	Educational qualifications
326.8(148C)	Supervision requirements
326.9(148C)	License renewal
326.10 to 326.14	Reserved

- 326.15(148C) Use of title
- 326.16(148C) Address change
- 326.17(148C) Student physician assistant
- 326.18(148C) Recognition of an approved program
- 326.19(17A,147,272C) License reactivation
- 326.20(17A,147,272C) License reinstatement

CHAPTER 327

PRACTICE OF PHYSICIAN ASSISTANTS

- 327.1(148C) Duties
- 327.2(148C) Prohibition
- 327.3 Reserved
- 327.4(148C) Remote medical site
- 327.5(147) Identification as a physician assistant
- 327.6(147) Prescription requirements
- 327.7(147) Supplying—requirements for containers, labeling, and records

CHAPTER 328

CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

- 328.1(148C) Definitions
- 328.2(148C) Continuing education requirements
- 328.3(148C,272C) Standards

CHAPTER 329

DISCIPLINE FOR PHYSICIAN ASSISTANTS

- 329.1(148C) Definitions
- 329.2(148C,272C) Grounds for discipline
- 329.3(147,272C) Method of discipline
- 329.4(272C) Discretion of board

CHAPTERS 330 to 350

Reserved

ATHLETIC TRAINERS

CHAPTER 351

LICENSURE OF ATHLETIC TRAINERS

- 351.1(152D) Definitions
- 351.2(152D) Requirements for licensure
- 351.3(152D) Educational qualifications
- 351.4(152D) Examination requirements
- 351.5(152D) Documentation of physician direction
- 351.6(152D) Athletic training plan for direct service
- 351.7(152D) Licensure by endorsement
- 351.8 Reserved
- 351.9(147) License renewal
- 351.10(272C) Exemptions for inactive practitioners
- 351.11 and 351.12 Reserved
- 351.13(272C) Lapsed licenses
- 351.14 Reserved
- 351.15(17A,147,272C) License reactivation
- 351.16(17A,147,272C) License reinstatement

CHAPTER 352

CONTINUING EDUCATION FOR ATHLETIC TRAINERS

- 352.1(272C) Definitions
- 352.2(152D) Continuing education requirements
- 352.3(152D,272C) Standards
- 352.4(152D,272C) Audit of continuing education report
- 352.5 and 352.6 Reserved
- 352.7(152D,272C) Continuing education waiver for active practitioners
- 352.8(152D,272C) Continuing education exemption for inactive practitioners
- 352.9 Reserved
- 352.10(152D,272C) Reinstatement of inactive practitioners
- 352.11(272C) Hearings

CHAPTER 353

DISCIPLINE FOR ATHLETIC TRAINERS

- 353.1(152D) Definitions
- 353.2(152D,272C) Grounds for discipline
- 353.3(152D,272C) Method of discipline
- 353.4(272C) Discretion of board

CHAPTERS 354 to 360

Reserved

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

- 361.1(154E) Definitions
- 361.2(154E) Requirements for licensure
- 361.3(154E) Licensure by endorsement
- 361.4 Reserved
- 361.5(154E) License renewal
- 361.6 to 361.8 Reserved
- 361.9(17A,147,272C) License reactivation
- 361.10(17A,147,272C) License reinstatement

CHAPTER 362

CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND
TRANSLITERATORS

- 362.1(154E,272C) Definitions
- 362.2(154E,272C) Continuing education requirements
- 362.3(154E,272C) Standards

CHAPTER 363

DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

- 363.1(154E) Definitions
- 363.2(154E,272C) Grounds for discipline
- 363.3(147,272C) Method of discipline
- 363.4(272C) Discretion of board

RESPIRATORY CARE PRACTITIONERS

CHAPTER 261	LICENSURE OF RESPIRATORY CARE PRACTITIONERS
CHAPTER 262	CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS
CHAPTER 263	DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS
CHAPTER 264	RESERVED
CHAPTER 265	PRACTICE OF RESPIRATORY CARE PRACTITIONERS

CHAPTER 261

LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS

[Prior to 4/17/02, see 645—Chapter 260]

645—261.1(148G,152B) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of respiratory care and polysomnography.

“*BRPT*” means the Board of Registered Polysomnographic Technologists.

“*CAAHEP*” means the Commission on Accreditation of Allied Health Education Programs.

“*CoARC*” means the Commission on Accreditation for Respiratory Care.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

“*License expiration date*” means March 31 of even-numbered years.

“*NBRC*” means the National Board of Respiratory Care.

“*Polysomnographic technologist*” means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—261.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care and polysomnography to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 8348B, IAB 12/2/09, effective 1/6/10; ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.2(148G,152B) General requirements for licensure.

261.2(1) The following general criteria shall apply to all applications for licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://idph.iowa.gov/Licensing>) or directly from the board office or may be submitted electronically at <https://IBPLicense.iowa.gov>. Paper applications shall be sent to Board of Respiratory Care and Polysomnography, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees specified in 645—subrule 5.17(1).

d. The applicant shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The cost for the 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) criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

e. The applicant shall submit a release authorizing the background check.

f. Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

g. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed. Verification shall be sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) All disciplinary action taken against the license.

261.2(2) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.3(152B) Additional requirements for respiratory care practitioner licensure. The following are additional specific criteria for licensure as a respiratory care practitioner:

261.3(1) The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

261.3(2) Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

261.3(3) The examination required by the board shall be the Therapist Multiple-Choice Examination or the Certified Respiratory Therapist Examination administered by the NBRC. The applicant shall have achieved a score on the examination which meets or exceeds the minimum passing score established by the NBRC.

261.3(4) The applicant shall apply directly to the NBRC to attempt the examination.

261.3(5) Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

a. Scores are sent directly from the examination service to the board;

b. A notarized copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or

c. A notarized copy of the score report or an electronic Web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.
[ARC 8348B, IAB 12/2/09, effective 1/6/10; ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.4(148G,152B) Additional requirements for polysomnographic technologist licensure. The following are additional specific criteria for licensure as a polysomnographic technologist:

261.4(1) Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

261.4(2) Graduation from a respiratory care program accredited by CoARC and completion of the sleep add-on program accredited by CoARC. A transcript shall be submitted to the board office directly from the college or university; or

261.4(3) Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

261.4(4) Requirements for current Iowa licensees holding a license in a profession other than polysomnography. An individual who holds an active license under Iowa Code section 147.2 in a profession other than polysomnography and whose license is in good standing with the board for that profession may receive licensure upon verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

261.4(5) Persons practicing sleep medicine on January 1, 2017.

a. A person who is working in the field of sleep medicine on January 1, 2017, may receive a license to perform polysomnography upon verification of the following:

(1) Verification that the person has completed 500 hours of clinical polysomnographic work experience within the three years immediately prior to January 1, 2017; and

(2) Verification from the medical director of the person's current employer or the medical director's designee that the person is competent to perform polysomnography.

b. A person who is not otherwise eligible to obtain a license pursuant to this subrule shall have until January 1, 2018, to:

(1) Achieve a passing score on the Registered Polysomnographic Technologist Examination administered by the BRPT. The passing score shall be the recommended passing score set by the BRPT; or

(2) Achieve a passing score on the Sleep Disorders Specialist Examination (SDS) administered by the NBRC. The passing score shall be the minimum passing score established by the NBRC.

261.4(6) Foreign-trained polysomnographic technologists shall:

a. Provide an equivalency evaluation of their educational credentials by either of the following:

(1) International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; Web site www.ierf.org or e-mail at info@ierf.org; or

(2) International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone (727)549-8555.

The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.5(148G,152B) Requirements for dual licensure. The following are additional specific criteria for licensure as a respiratory care and polysomnography practitioner. An applicant for licensure as a respiratory care and polysomnography practitioner shall meet the requirements of 261.5(1) and 261.5(2).

261.5(1) The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

a. Foreign-trained practitioners shall:

(1) Provide an equivalency evaluation of their educational credentials by either of the following:

1. International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone (310)258-9451; Web site www.ierf.org or e-mail at info@ierf.org; or

2. International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777; telephone (727)549-8555.

The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.

(3) Receive a final determination from the board regarding the application for licensure.

b. Examination requirements. The examinations required by the board shall be the Therapist Multiple-Choice Examination administered by the NBRC and either the Sleep Disorders Specialist Examination (SDS) administered by the NBRC or the Registered Polysomnographic Technologist Examination administered by the BRPT. The passing score shall be the minimum passing score established by the NBRC or BRPT.

(1) The applicant shall apply directly to the examination service to attempt the examination.

(2) Results of the examinations must be received by the board of respiratory care and polysomnography by one of the following methods:

1. Scores are sent directly from the examination service to the board;

2. A notarized copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or

3. A notarized copy of the score report or an electronic Web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC is submitted to the board.

261.5(2) The applicant must also meet one of the following requirements:

a. Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

b. Completion of a sleep add-on program accredited by CoARC. A transcript shall be submitted to the board office directly from the college or university; or

c. Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

d. Hold an active license under Iowa Code section 147.2 in a profession other than polysomnography that is in good standing with the board for that profession and provide verification from the medical director of the applicant's current employer or the medical director's designee that the applicant has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography; or

e. Persons practicing sleep medicine on January 1, 2017.

(1) A person who is working in the field of sleep medicine on January 1, 2017, may receive a license upon verification of the following:

1. Verification that the person has completed 500 hours of clinical or nonclinical polysomnographic work experience within the three years immediately prior to January 1, 2017, and

2. Verification from the medical director of the person's current employer or the medical director's designee that the person is competent to perform polysomnography.

(2) A person who is not otherwise eligible to obtain a license pursuant to this subrule shall have until January 1, 2018, to achieve a passing score on the Registered Polysomnographic Technologist

Examination administered by the BRPT or achieve a passing score on the Sleep Disorders Specialist Examination (SDS) administered by the NBRC. The passing score for the Registered Polysomnographic Technologist Examination shall be the recommended passing score set by the BRPT. The passing score for the SDS shall be the minimum passing score established by the NBRC.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.6(152B) Licensure by endorsement. Rescinded ARC 2323C, IAB 12/23/15, effective 1/27/16.

645—261.7(147) Licensure by reciprocal agreement. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.8(148G,152B) License renewal.

261.8(1) The biennial license renewal period for a license shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

261.8(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

261.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—262.2(148G,152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

261.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 262.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

261.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

261.8(6) A person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

261.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 645—5.17(147,152B). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

261.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9933B, IAB 12/28/11, effective 2/1/12; ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.9(272C) Exemptions for inactive practitioners. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.10(272C) Lapsed licenses. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.11(147) Duplicate certificate or wallet card. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.12(147) Reissued certificate or wallet card. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.13(17A,147,272C) License denial. Rescinded IAB 11/19/08, effective 1/1/09.

645—261.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

261.14(1) Submit a reactivation application on a form provided by the board.

261.14(2) Pay the reactivation fee specified in rule 645—5.17(147,152B).

261.14(3) If the license has been inactive for two or more years, the licensee shall submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks shall be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

261.14(4) Provide verification of current competence to practice by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 24 hours of continuing education.
 2. For polysomnographic technologists: 24 hours of continuing education.
 3. For respiratory care and polysomnography practitioners: 24 hours of continuing education of which at least 8 hours but no more than 12 hours shall be on sleep-related topics.
- b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 48 hours of continuing education.
2. For polysomnographic technologists: 48 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 48 hours of continuing education of which at least 16 hours but no more than 24 hours shall be on sleep-related topics.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—261.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—261.14(17A,147,272C) prior to practicing in this state.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code chapters 17A, 147, 152B and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

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CHAPTER 262
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

[Prior to 4/17/02, see 645—Chapter 261]

645—262.1(148G,152B,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of respiratory care and polysomnography.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Electronically transmitted*” means a program/activity that is videotaped, presented on the Iowa Communications Network (ICN), computer-based or other electronically based means that includes a posttest.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—262.2(148G,152B,272C) Continuing education requirements.

262.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee shall be required to complete continuing education that meets the requirements specified in rule 645—262.3(148G,152B,272C).

a. For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. Fourteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

b. For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education. Eighteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

c. For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education. Fourteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

262.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses.

Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. For each subsequent license renewal, the new licensee will be required to complete continuing education per biennium.

262.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

262.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

262.2(5) It is the responsibility of each licensee to finance the cost of continuing education.
[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—262.3(148G,152B,272C) Standards.

262.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

262.3(2) Specific criteria. Continuing education hours of credit may be obtained by:

a. Programs/activities that shall be of a clinical nature related to the practice of respiratory care or polysomnography.

b. Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.

c. Academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS :

Advanced Cardiac Life Support	12 hours
Basic Cardiac Life Support—Instructor	8 hours
Basic Cardiac Life Support	6 hours
Neonatal Resuscitation	9 hours
Pediatric Advanced Life Support	14 hours
Mandatory Reporting	4 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours

Neonatal Pediatric Specialist	12 hours
Sleep Disorders Specialist	12 hours
Adult Critical Care Specialist	12 hours

RECERTIFICATIONS :

Advanced Cardiac Life Support	4 hours
Basic Cardiac Life Support	2 hours
Neonatal Resuscitation	3 hours
Pediatric Advanced Life Support	3 hours
Registered Respiratory Therapist	24 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours
Neonatal Pediatric Specialist	12 hours
Sleep Disorders Specialist	12 hours
Adult Critical Care Specialist	12 hours
Certified Respiratory Therapist	24 hours

e. Unacceptable subject matter includes marketing, personal development, time management, human relations, collective bargaining and tours.

[ARC 9931B, IAB 12/28/11, effective 2/1/12; ARC 0537C, IAB 12/26/12, effective 1/30/13; ARC 1453C, IAB 5/14/14, effective 6/18/14; ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—262.4(152B,272C) Audit of continuing education report. Rescinded IAB 12/28/11, effective 2/1/12.

645—262.5(148G,152B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—262.6(148G,152B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

262.6(1) Failure to cooperate with a board audit.

262.6(2) Failure to meet the continuing education requirement for licensure.

262.6(3) Falsification of information on the license renewal form.

262.6(4) Falsification of continuing education information.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—262.7(148G,152B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved

by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

262.7(1) The board may grant an extension of time to fulfill the continuing education requirement.

262.7(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

262.7(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code section 272C.2 and chapter 152B and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

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CHAPTER 263
DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

[Prior to 4/17/02, see rule 645—260.11(152B,272C)]

645—263.1(148G,152B) Definitions.

“*Board*” means the board of respiratory care and polysomnography.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in Iowa.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—263.2(148G,152B,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—263.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

263.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

263.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners or technologists in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner or technologist acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a respiratory care practitioner or polysomnographic technologist in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee’s ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

263.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

263.2(4) Practice outside the scope of the profession.

263.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to:

a. An action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

b. Inflated or unjustified expectations of favorable results.

c. Self-laudatory claims that imply that the respiratory care practitioner or polysomnographic technologist is skilled in a field or specialty of practice for which the practitioner or technologist is not qualified.

d. Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care or polysomnography profession.

263.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

263.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

263.2(8) Falsification of client records.

263.2(9) Acceptance of any fee by fraud or misrepresentation.

263.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

263.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

263.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

263.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

263.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

263.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

263.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

263.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

263.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

263.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

263.2(20) Failure to pay costs assessed in any disciplinary action.

263.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

263.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

263.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a respiratory care practitioner.

263.2(24) Failure to report a change of name or address within 30 days after it occurs.

263.2(25) Representing oneself as a respiratory care practitioner or polysomnographic technologist when one's license has been suspended or revoked, or when one's license is on inactive status.

263.2(26) Permitting another person to use the licensee's license for any purpose.

263.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

263.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

263.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

263.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 8348B, IAB 12/2/09, effective 1/6/10; ARC 9933B, IAB 12/28/11, effective 2/1/12; ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—263.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—263.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—263.5(152B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 11/19/08, effective 1/1/09.

These rules are intended to implement Iowa Code chapters 147, 152B and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

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CHAPTER 265
PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND
POLYSOMNOGRAPHIC TECHNOLOGISTS

645—265.1(148G,152B,272C) Definitions.

“*Board*” means the board of respiratory care and polysomnography.

“*Direct supervision*” means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

“*General supervision*” means that the polysomnographic procedure is provided under a physician’s or qualified health care professional prescriber’s overall direction and control, but the physician’s or qualified health care professional prescriber’s presence is not required during the performance of the procedure.

“*Physician*” means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery and who is board certified and who is actively involved in the sleep medicine center or laboratory.

“*Polysomnographic student*” means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as part of the person’s education program.

“*Polysomnographic technician*” means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to 30 days following graduation while awaiting credentialing examination scheduling and results.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—265.2(148G,152B,272C) Code of ethics.

265.2(1) The respiratory care practitioner or polysomnographic technologist shall practice acceptable methods of treatment and shall not practice beyond the competence or exceed the authority vested in the practitioner or technologist by physicians.

265.2(2) The respiratory care practitioner or polysomnographic technologist shall continually strive to increase and improve knowledge and skill and shall render to each patient the full measure of the practitioner’s or technologist’s ability. All services shall be provided with respect for the dignity of the patient, regardless of the patient’s social or economic status or personal attributes or the nature of the patient’s health problems.

265.2(3) The respiratory care practitioner or polysomnographic technologist shall be responsible for the competent and efficient performance of assigned duties and shall expose incompetent, illegal or unethical conduct of members of the profession.

265.2(4) The respiratory care practitioner or polysomnographic technologist shall hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient’s physician.

265.2(5) The respiratory care practitioner or polysomnographic technologist shall not accept gratuities and shall guard against conflict of interest.

265.2(6) The respiratory care practitioner or polysomnographic technologist shall uphold the dignity and honor of the profession and abide by its ethical principles.

265.2(7) The respiratory care practitioner or polysomnographic technologist shall have knowledge of existing state and federal laws governing the practice of respiratory therapy or polysomnography and shall comply with those laws.

265.2(8) The respiratory care practitioner or polysomnographic technologist shall cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—265.3(152B,272C) Intravenous administration. Starting an intravenous line or administering intravenous medications is not considered a competency within the scope of a licensed respiratory care practitioner. However, this rule does not preclude a licensed respiratory care practitioner from performing intravenous administration under the auspices of the employing agency if formal training is acquired and documented.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—265.4(152B,272C) Setup and delivery of respiratory care equipment.

265.4(1) Unlicensed personnel may deliver, set up, and test the operation of respiratory care equipment for a patient but may not perform any type of patient care. Instruction or demonstration of the equipment shall be limited to its mechanical operation (on and off switches, emergency button, cleaning, maintenance). Any instruction or demonstration to the patient regarding the clinical use of the equipment, the fitting of any device to the patient or making any adjustment, or any patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory therapist or other licensed health care provider allowed by Iowa law.

265.4(2) Respiratory care equipment includes but is not limited to:

- a. Positive airway pressure (continuous positive airway pressure and bi-level positive airway pressure) devices and supplies;
- b. Airway clearance devices;
- c. Invasive and noninvasive mechanical ventilation devices and supplies;
- d. Nasotracheal and tracheal suctioning devices and supplies;
- e. Apnea monitors and alarms and supplies;
- f. Tracheostomy care devices and supplies;
- g. Respiratory diagnostic testing devices and supplies, including but not limited to pulse oximetry, CO₂ monitoring, and spirometry devices and supplies; and
- h. Pulse-dose or demand-type oxygen conserving devices or any oxygen delivery systems beyond the capabilities of a simple mask or cannula or requiring particulate or molecular therapy in conjunction with oxygen.

[ARC 0537C, IAB 12/26/12, effective 1/30/13]

645—265.5(152B,272C) Respiratory care as a practice. “Respiratory care as a practice” means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities that affect the pulmonary system and associated aspects of cardiopulmonary and other systems’ functions, and includes, but is not limited, to the following direct and indirect respiratory care services that are safe, of comfort, aseptic, preventative, and restorative to the patient:

1. Observing and monitoring signs and symptoms, general behavior, reactions, and general physical responses to respiratory care treatment and diagnostic testing.
2. Determining whether the signs, symptoms, behavior, reactions, or general responses exhibit abnormal characteristics.
3. Performing pulmonary diagnostic testing.
4. Analyzing blood gases and respiratory secretions.
5. Measuring and monitoring hemodynamic and physiologic function related to cardiopulmonary pathophysiology.
6. Performing diagnostic and testing techniques in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows; and collection of specimens of blood and from the respiratory tract.

7. Administering:
 - Medical gases, aerosols, and humidification, not including general anesthesia.
 - Lung expansion therapies.
 - Bronchopulmonary hygiene therapies.
 - Hyperbaric therapy.
 - Pharmacologic and therapeutic agents necessary to implement therapeutic, disease prevention, pulmonary rehabilitative, or diagnostic regimens prescribed by a licensed physician, surgeon, or other qualified health care professional prescriber.
8. Maintaining natural and artificial airways.
9. Without cutting tissues, inserting and maintaining artificial airways.
10. Initiating, monitoring, modifying and discontinuing invasive or noninvasive mechanical ventilation.
11. Performing basic and advanced cardiopulmonary resuscitation.
12. Performing invasive procedures that relate to respiratory care.
13. Implementing changes in treatment regimen based on observed abnormalities and respiratory care protocols to include appropriate reporting and referral.
14. Managing asthma, COPD, and other respiratory diseases.
15. Performing cardiopulmonary rehabilitation.
16. Instructing patients in respiratory care, functional training in self-care and home respiratory care management and promoting the maintenance of respiratory care fitness, health, and quality of life.
17. Performing those advanced practice procedures that are permitted within the policies of the employing institution and for which the respiratory care practitioner has documented training and demonstrated competence.
18. Managing the clinical delivery of respiratory care services through the ongoing supervision, teaching, and evaluation of respiratory care.
19. Transcribing and implementing a written, verbal, or telephonic order from a licensed physician, surgeon, or other qualified health care professional prescriber pertaining to the practice of respiratory care.

[ARC 1453C, IAB 5/14/14, effective 6/18/14]

645—265.6(148G,272C) Practice of polysomnography.

265.6(1) The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

a. Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

- (1) Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.
- (2) Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.
- (3) Capnography during a polysomnogram.
- (4) Cardiopulmonary resuscitation.
- (5) Pulse oximetry.
- (6) Gastroesophageal pH monitoring.
- (7) Esophageal pressure monitoring.
- (8) Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.
- (9) Surface electromyography.
- (10) Electrocardiography.
- (11) Respiratory effort monitoring, including thoracic and abdominal movement.

- (12) Plethysmography blood flow monitoring.
- (13) Snore monitoring.
- (14) Audio and video monitoring.
- (15) Body movement monitoring.
- (16) Nocturnal penile tumescence monitoring.
- (17) Nasal and oral airflow monitoring.
- (18) Body temperature monitoring.

b. Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance shall not extend into the trachea or attach to an artificial airway.

c. Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted.

d. Analyzing and scoring data collected during the monitoring described in this subrule for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.

e. Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

f. Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

g. Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

265.6(2) Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience shall give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to gain the experience to be eligible to sit for a national certification examination. The person shall wear a badge that appropriately identifies the person while providing such services.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—265.7(148G,152B,272C) Students.

265.7(1) A student who is enrolled in an approved respiratory care, sleep add-on, polysomnography training program, or electroneurodiagnostic program and is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G], under the direct and immediate supervision of a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner for the duration of the program, but not to exceed the duration of the program.

265.7(2) Direct and immediate supervision of a respiratory care or polysomnographic student means that the licensed respiratory care practitioner or polysomnographic technologist shall:

- a.* Be continuously on site and present in the department or facility where the student is performing care;
- b.* Be immediately available to assist the person being supervised in the care being performed; and
- c.* Be responsible for care provided by students.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

645—265.8(148G,272C) Location of polysomnography services. The practice of polysomnography shall take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under Iowa Code

chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

[ARC 2323C, IAB 12/23/15, effective 1/27/16]

These rules are intended to implement Iowa Code chapters 147, 152B, and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

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CHAPTER 1
ADMISSION RULES COMMON TO THE THREE STATE UNIVERSITIES
[Prior to 4/20/88, Regents, Board of[720]]

PREAMBLE

The state board of regents has adopted the following requirements governing admission of students to the three state universities.

Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

Amendments and changes in these requirements normally are proposed by the universities to the regent committee on educational relations, which examines the proposals and makes specific recommendations through the council of provosts to the state board of regents, which is empowered by law to establish the admission requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

[ARC 2051C, IAB 7/8/15, effective 8/12/15]

681—1.1(262) Admission of undergraduate students directly from high school. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

1.1(1) Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(3) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants must also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

1.1(2) Admission criteria.

a. Effective for students who seek admission prior to fall 2009. Graduates of approved Iowa high schools who have the subject matter background required by each university and who rank in the upper one-half of their graduating class will be admitted to any regent university. Applicants who are not in the upper one-half of their graduating class may, after an individual review of their academic and test records, and at the discretion of the admissions officers:

- (1) Be admitted unconditionally,
- (2) Be admitted conditionally,
- (3) Be required to enroll for a tryout period during a preceding summer session, or
- (4) Be denied admission.

b. Effective for students who seek admission in fall 2009 and thereafter.

(1) Decisions on admission to a regent university are based on the following four factors: performance on standardized tests (SAT Reasoning Test or ACT); high school grade point average (GPA); high school percentile rank in class (when available); and number of high school courses completed in the core subject areas. A primary regent admission index (RAI) will be calculated for each freshman applicant using the formula below when the high school has provided a class rank.

$$\text{RAI} = \frac{(2 \times \text{ACT composite score})}{100} + \frac{(1 \times \text{high school rank expressed as a percentile})}{100} + \frac{(20 \times \text{high school grade point average})}{100} + \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{100}$$

NOTE: For purposes of calculating the primary regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school rank is expressed as a percentile with 99 percent as the top value; high school GPA is expressed in a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

(2) Graduates of approved Iowa high schools who have the subject matter background required by each university and who meet the regent admission index of 245 required for automatic admission will be admitted to any regent university. Applicants who do not meet the regent admission index of 245 for automatic admission or for whom a regent admission index cannot be calculated may, after an individual review of their academic and test records, and at the discretion of the admissions officers:

1. Be admitted unconditionally,
2. Be admitted conditionally,
3. Be required to enroll for a tryout period during a preceding summer session, or
4. Be denied admission.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

An alternative regent admission index (RAI) will be calculated for each freshman applicant using the equation below when the high school has not provided a class rank.

$$\text{RAI} = \frac{(3 \times \text{ACT composite score})}{100} + \frac{(30 \times \text{high school grade point average})}{100} + \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{100}$$

NOTE: For purposes of calculating the alternative regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school GPA is expressed on a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum number of high school courses required by the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

1.1(3) Graduates of approved high schools in other states may be held to higher academic standards, but must meet at least the same requirements as graduates of Iowa high schools. The options for conditional admission or summer tryout enrollment may not necessarily be offered to these students.

1.1(4) Applicants who are graduates of nonapproved high schools will be considered for admission in a manner similar to applicants from approved high schools, but additional emphasis will be given to scores obtained on standardized examinations.

1.1(5) Applicants who are not high school graduates, but whose classes have graduated, may be considered for admission. These applicants will be required to submit all academic data to the extent that it exists and achieve scores on standardized examinations which will demonstrate that they are adequately prepared for academic study.

1.1(6) Early admission.

a. Students with superior academic records may be admitted, on an individual basis, for part-time university study while enrolled in high school or during the summers prior to high school graduation.

b. In rare situations, exceptional students may be admitted as full-time students to a regent university before completing high school. Early admission to a regent university is provided to serve persons whose academic achievement and personal and intellectual maturity clearly suggest readiness for collegiate level study. Each university will specify requirements and conditions for early admission.

This rule is intended to implement Iowa Code section 262.9(3).
[ARC 2051C, IAB 7/8/15, effective 8/12/15]

681—1.2(262) Admission of undergraduate students by transfer from other colleges. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(18) and detailed in rule 681—1.7(262), and request that each college they have attended send an official transcript of record to the admissions office. High school academic records and standardized test results may also be required. The Test of English as a Foreign Language (TOEFL) is required of foreign students whose first language is not English.

1.2(1) Transfer applicants with a minimum of 24 semester hours of graded credit from regionally accredited colleges or universities, who have achieved for all college work previously attempted the grade point required by each university for specific programs, will be admitted. Higher academic standards may be required of students who are not residents of Iowa.

Applicants who have not maintained the grade point required by each university for specific programs or who are under academic suspension from the last college attended may, after a review of their academic and test records, and at the discretion of the admissions officers:

- a. Be admitted unconditionally,
- b. Be admitted conditionally,
- c. Be required to enroll for a tryout period during a preceding summer session, or
- d. Be denied admission.

1.2(2) Admission of students with fewer than 24 semester hours of college credit will be based on high school academic and standardized test records in addition to review of the college record.

1.2(3) Transfer applicants under disciplinary suspension will not be considered for admission until information concerning the reason for the suspension has been received from the college assigning the suspension. Applicants granted admission under these circumstances will be admitted on probation.

1.2(4) Transfer applicants from colleges and universities not regionally accredited will be considered for admission on an individual basis taking into account all available academic information.

This rule is intended to implement Iowa Code section 262.9(3).

681—1.3(262) Transfer credit practices. The regent universities endorse the Joint Statement on Transfer and Award of Academic Credit approved in 1978 by the American Council on Education (ACE), the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and the Council on Postsecondary Accreditation (COPA). The current issue of Transfer Credit Practices of Selected Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and publications of the Council on Postsecondary Accreditation (COPA) are examples of references used by the universities in determining transfer credit. The acceptance and use of transfer credit is subject to limitations in accordance with the educational policies operative at each university.

1.3(1) *Students from regionally accredited colleges and universities.* Credit earned at regionally accredited colleges and universities is acceptable for transfer except that credit in courses determined by the receiving university to be of a remedial, vocational, or technical nature, or credit in courses or programs in which the institution granting the credit is not directly involved, may not be accepted, or may be accepted to a limited extent.

Of the coursework earned at a two-year college, students may apply up to one-half but no more than 65 hours of the credits required for a bachelor's degree toward that degree at a regent university. This policy becomes effective September 29, 1993.

1.3(2) *Students from colleges and universities which have candidate status.* Credit earned at colleges and universities which have become candidates for accreditation by a regional association is acceptable for transfer in a manner similar to that from regionally accredited colleges and universities if the credit is applicable to the bachelor's degree at the receiving university.

Credit earned at the junior and senior classification from an accredited two-year college which has received approval by a regional accrediting association for change to a four-year college may be accepted by a regent university.

1.3(3) *Students from colleges and universities not regionally accredited.* When students are admitted from colleges and universities not regionally accredited, they may validate portions or all of their transfer credit by satisfactory academic study in residence, or by examination. Each university will specify the amount of the transfer credit and the terms of the validation process at the time of admission.

In determining the acceptability of transfer credit from private colleges in Iowa which do not have regional accreditation, the regent committee on educational relations, upon request from the institutions, evaluates the nature and standards of the academic program, faculty, student records, library, and laboratories.

In determining the acceptability of transfer credit from colleges in states other than Iowa which are not regionally accredited, acceptance practices indicated in the current issue of Transfer Credit Practices of Selected Educational Institutions will be used as a guide. For institutions not listed in the publication, guidance is requested from the designated reporting institution of the appropriate state.

1.3(4) *Students from foreign colleges and universities.* Transfer credit from foreign educational institutions may be granted after a determination of the type of institution involved and after an evaluation of the content, level, and comparability of the study to courses and programs at the receiving university. Credit may be granted in specific courses, but is frequently assigned to general areas of study. Extensive use is made of professional journals and references which describe the education systems and programs of individual countries.

This rule is intended to implement Iowa Code section 262.9(3).

681—1.4(262) Classification of residents and nonresidents for admission, tuition, and fee purposes.

1.4(1) General.

a. A person enrolling at one of the three state universities shall be classified as a resident or nonresident for admission, tuition, and fee purposes by the registrar or someone designated by the registrar. The decision shall be based upon information furnished by the student and other relevant information.

b. In determining resident or nonresident classification, the issue is essentially one of why the person is in the state of Iowa. If the person is in the state primarily for educational purposes, that person will be considered a nonresident. For example, it may be possible that an individual could qualify as a resident of Iowa for such purposes as voting, or holding an Iowa driver's license, and not meet the residency requirements as established by the board of regents for admission, tuition, and fee purposes.

c. The registrar, or designated person, is authorized to require written documents, affidavits, verifications, or other evidence deemed necessary to determine why a student is in Iowa. The burden of establishing that a student is in Iowa for other than educational purposes is upon the student.

A student may be required to file any or all of the following:

- (1) A statement from the student describing employment and expected sources of support;
- (2) A statement from the student's employer;
- (3) A statement from the student's parents verifying nonsupport and the fact that the student was not listed as a dependent on tax returns for the past year and will not be so listed in future years;
- (4) A statement from the student's spouse related to sources of family support, length of residence in Iowa, and reasons for being in the state of Iowa;
- (5) Supporting statements from persons who might be familiar with the family situation;

(6) Iowa state income tax return.

d. Applications for resident classification for a given semester or session are due no later than the fifteenth class day of that semester or session. Applications received after the fifteenth class day of that semester or session will be considered for the next semester or session. Appeals of any nonresident classification decision resulting from applications for resident classifications are due no later than midterm of that semester or session. Change of classification from nonresident to resident will not be made retroactive beyond the term in which application for resident classification is made.

e. A student who gives incorrect or misleading information to evade payment of nonresident fees shall be subject to serious disciplinary action and must also pay the nonresident fees for each term previously attended.

f. Review committee. These regulations shall be administered by the registrar or someone designated by the registrar. The decision of the registrar or designated person may be appealed to a university review committee. The decision of the review committee may be appealed to the state board of regents.

1.4(2) Guidelines.

a. The following general guidelines are used in determining the resident classification of a student for admission, tuition, and fee purposes:

(1) A financially dependent student whose parents move from Iowa after the student is enrolled remains a resident provided the student maintains continuous enrollment. A financially dependent student whose parents move from Iowa during the senior year of high school will be considered a resident provided the student has not established domicile in another state.

(2) In deciding why a person is in the state of Iowa, the person's domicile will be considered. A person who comes to Iowa from another state and enrolls in any institution of postsecondary education for a full program or substantially a full program shall be presumed to have come to Iowa primarily for educational reasons rather than to establish a domicile in Iowa.

(3) A student who was a former resident of Iowa may continue to be considered a resident provided absence from the state was for a period of less than 12 months and provided domicile is reestablished. If the absence from the state is for a period exceeding 12 months, a student may be considered a resident if evidence can be presented showing that the student has long-term ties to Iowa and reestablishes an Iowa domicile.

A person or the dependent of a person whose domicile is permanently established in Iowa, who has been classified as a resident for admission, tuition, and fee purposes, may continue to be classified as a resident so long as domicile is maintained, even though circumstances may require extended absence of the person from the state. It is required that a person who claims Iowa domicile while living in another state or country will provide proof of the continual Iowa domicile as evidence that the person:

1. Has not acquired a domicile in another state,
2. Has maintained a continuous voting record in Iowa, and
3. Has filed regular Iowa resident income tax returns during absence from the state.

(4) A student who moves to Iowa may be eligible for resident classification at the next registration following 12 consecutive months in the state provided the student is not enrolled as more than a half-time student (6 credits for an undergraduate or professional student, 5 credits for a graduate student) in any academic year term, is not enrolled for more than 4 credits in a summer term for any classification, and provides sufficient evidence of the establishment of an Iowa domicile.

(5) A student who has been a continuous student and whose parents move to Iowa may become a resident at the beginning of the next term provided the student is dependent upon the parents for a majority of financial assistance.

(6) A person who has been certified as a refugee or granted asylum by the appropriate agency of the United States who enrolls as a student at a university governed by the Iowa state board of regents may be accorded immediate resident status for admission, tuition, and fee purposes when the person:

1. Comes directly to the state of Iowa from a refugee facility or port of debarkation, or
2. Comes to the state of Iowa within a reasonable time and has not established domicile in another state.

Any refugee or individual granted asylum not meeting these standards will be presumed to be a nonresident for admission, tuition, and fee purposes and thus subject to the usual method of proof of establishment of Iowa residency.

(7) An alien who has immigrant status establishes Iowa residency in the same manner as a United States citizen.

(8) At the regent institutions, American Indians who have origins in any of the original people of North America and who maintain a cultural identification through tribal affiliation or community recognition with one or more of the tribes or nations connected historically with the present state of Iowa, including the Iowa, Kickapoo, Menominee, Miami, Missouri, Ojibwa (Chippewa), Omaha, Otoe, Ottawa (Odawa), Potawatomi, Sac and Fox (Sauk, Meskwaki), Sioux, and Winnebago (Ho Chunk), will be assessed Iowa resident tuition and fees.

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and other qualified individuals for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the child or spouse/domestic partner of such person, is entitled to resident status for purposes of undergraduate, graduate, professional, or certificate tuition and mandatory fees. The child or spouse/domestic partner may be required to submit appropriate documentation to the university.

(2) The rules for classification of veterans and qualified individuals shall be in full compliance with all federal laws, including Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Choice Act). The qualified individual may be required to submit appropriate documentation to the university.

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the child or spouse/domestic partner of such a person, is entitled to resident status. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

1.4(3) Facts.

a. The following circumstances, although not necessarily conclusive, have probative value in support of a claim for resident classification:

(1) Reside in Iowa for 12 consecutive months, and be primarily engaged in activities other than those of a full-time student, immediately prior to the beginning of the term for which resident classification is sought.

(2) Reliance upon Iowa resources for financial support.

(3) Domicile in Iowa of persons legally responsible for the student.

(4) Former domicile in the state and maintenance of significant connections therein while absent.

(5) Acceptance of an offer of permanent employment in Iowa.

(6) Military orders, if for other than educational purposes.

(7) Other facts indicating the student's domicile will be considered by the universities in classifying the student.

b. The following circumstances, standing alone, do not constitute sufficient evidence of domicile to effect classification of a student as a resident under these regulations:

(1) Voting or registration for voting.

(2) Employment in any position normally filled by a student.

(3) The lease of living quarters.

(4) Admission to a licensed practicing profession in Iowa.

(5) Automobile registration.

(6) Public records, for example, birth and marriage records, Iowa driver's license.

(7) Continuous presence in Iowa during periods when not enrolled in school.

(8) Ownership of property in Iowa, or the payment of Iowa taxes.

This rule is intended to implement Iowa Code section 262.9(3).

[ARC 7911B, IAB 7/1/09, effective 7/1/09; ARC 1991C, IAB 5/13/15, effective 6/17/15; ARC 2332C, IAB 12/23/15, effective 12/23/15]

681—1.5(262) Registration and transcripts—general. A person may not be permitted to register for a course or courses at a state board of regents institution until any delinquent accounts owed by the person to an institution or any affiliated organization for which an institution acts as fiscal agent have been paid.

A state board of regents institution may withhold official transcripts of the academic record of a person until any delinquent accounts owed by the person to an institution or any affiliated organization for which an institution acts as fiscal agent have been paid.

This rule is intended to implement Iowa Code section 262.9.

681—1.6(262) College-bound program.

1.6(1) Definitions.

“*Accredited private institution*” means an institution of higher education as defined in Iowa Code section 261.9, subsection 5.

“*Commission*” means the college aid commission.

“*Financial need*” means the difference between the student’s financial resources, including resources available from the student’s parents and the student, as determined by a completed parents’ financial statement and including any non-campus-administered federal or state grants and scholarships, and the student’s estimated expenses while attending the institution. A student shall accept all available federal and state grants and scholarships before being considered eligible for grants under the Iowa minority academic grants for economic success program. Financial need shall be reconsidered on at least an annual basis.

“*Full-time student*” means an individual who is enrolled at an accredited private institution or board of regents university for at least 12 semester hours or the trimester or quarter equivalent.

“*Minority person*” means an individual who is black, Hispanic, Asian, or a Pacific Islander, American Indian, or an Alaskan Native American.

“*Part-time student*” means an individual who is enrolled at an accredited private institution or board of regents university in a course of study including at least three semester hours or the trimester or quarter equivalent of three semester hours.

“*Program*” means the Iowa minority academic grants for economic success program established in this division.

1.6(2) Policy on college-bound program.

a. The regent institutions will cooperate with other state and local agencies, including the department of education, the college aid commission, and educational institutions in implementing the college-bound program.

b. The universities will develop programs for elementary, middle and secondary school students and their families in the following areas:

- (1) Encouragement to consider attending a postsecondary institution;
- (2) Enrichment and academic preparation;
- (3) Information about how to apply for admission.

c. College-bound program vouchers will be awarded to students on the basis of the participation of the student and the student’s family in the college-bound program. One voucher will be awarded for participation in each college-bound program sponsored by a university.

(1) Each university will maintain records concerning those students who participate in the college-bound program, according to its established policies and procedures. The records will include information on those students who have received college-bound program vouchers which are described in Iowa Code section 262.92(2). The University of Iowa will maintain a central record on all students who have received college-bound program vouchers on behalf of all regent institutions and will make appropriate information available to the college aid commission.

(2) College-bound program vouchers may be used by students enrolled at a regent institution or at a private college or university in Iowa.

(3) A student holding vouchers and enrolling at a regent institution will receive priority in the award of funds under the Iowa minority academic grants for economic success (IMAGES) program. Awards under the IMAGES program are made on the basis of financial need. A student may be eligible for an additional award from the institution in which the student is enrolled.

(4) A student holding vouchers and enrolling at a private college or university in Iowa will receive priority in the award of funds under the Iowa minority academic grants for economic success program as provided by the rules of the college aid commission.

(5) The presidents, or their designees, will administer and coordinate the college-bound program at the universities. As part of the coordination, they will establish liaison with the appropriate state and local agencies, serve as the university contact and promote collaborative efforts among the regent universities and other appropriate agencies and institutions. Annual reports to the board of regents shall be prepared by each regent university. The reports shall contain relevant information as to the accomplishments of the program in the past year and a plan of action with goals and objectives for the forthcoming year. Reports shall be submitted to the board of regents on October 1 of each year.

This rule is intended to implement Iowa Code section 262.92.

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$85
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
PharmD student	\$100
Reentry fee	\$20

Iowa State University

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
Veterinary Medicine	\$75

University of Northern Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$75
Reentry fee	\$20

This rule is intended to implement Iowa Code section 262.9(3).

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