PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

CHAPTER 1
THE DEPARTMENT

1.1(17A)	Establishment of the department of public safety
1.2(17A)	Organization
1.3(17A)	Offices
1.4(17A)	Methods by which and location where the public may obtain information or make submissions or requests
1.5	Reserved
1.6(17A)	Legal advice
1.7(17A)	Surety companies
1.8(17A)	Construction of rules

CHAPTER 2
Reserved

CHAPTER 3
SHERIFF'S UNIFORMS

3.1(17A,331)	General provisions
3.2(17A,331)	Trousers
3.3(17A,331)	Shirts
3.4(17A,331)	Hats
3.5(17A,331)	Ties
3.6(17A,331)	Raingear
3.7(17A,331)	Shoes and boots
3.8(17A,331)	Gloves
3.9(17A,331)	Jackets
3.10(17A,331)	Accessories

CHAPTERS 4 and 5
Reserved

CHAPTER 6
VEHICLE IMPOUNDMENT

6.1(17A,321)	Vehicle impoundment
6.2(17A,321)	Vehicles which may be impounded immediately
6.3(17A,321)	Vehicles which need not be impounded immediately
6.4(17A,321)	Impoundment procedure
6.5(17A,321)	Abandoned vehicles
6.6(321)	Scope

CHAPTER 7
Reserved

CHAPTER 8
CRIMINAL JUSTICE INFORMATION

8.1 to 8.100	Reserved

DIVISION I
IOWA ON-LINE WARRANTS AND ARTICLES SYSTEM

8.101(80,692)	Iowa on-line warrants and articles (IOWA) criminal justice information system
8.102(80,692)	Information available through the IOWA system
8.103(80)	Human immunodeficiency virus-related information
8.104(80,692)	IOWA system security
8.105(80,692)	Subpoenas and court orders
8.106 to 8.200	Reserved

DIVISION II

CRIMINAL INTELLIGENCE INFORMATION

8.201 to 8.300 Reserved

DIVISION III
IOWA SEX OFFENDER REGISTRY

CHAPTER 9
Reserved

CHAPTER 10
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY

10.1(17A) Definitions
10.2 to 10.100 Reserved

DECLARATORY ORDERS

10.101(17A) Petition for declaratory order
10.102(17A) Notice of petition
10.103(17A) Intervention
10.104(17A) Briefs
10.105(17A) Inquiries
10.106(17A) Service and filing of petitions and other papers
10.107(17A) Consideration
10.108(17A) Action on petition
10.109(17A) Refusal to issue order
10.110(17A) Contents of declaratory order—effective date
10.111(17A) Copies of orders
10.112(17A) Effect of a declaratory order
10.113 to 10.200 Reserved

AGENCY PROCEDURE FOR RULE MAKING

10.201(17A) Applicability
10.202(17A) Advice on possible rules before notice of proposed rule adoption
10.203(17A) Public rule-making docket
10.204(17A) Notice of proposed rule making
10.205(17A) Public participation
10.206(17A) Regulatory analysis
10.207(17A,25B) Fiscal impact statement
10.208(17A) Time and manner of rule adoption
10.209(17A) Variance between adopted rule and published notice of proposed rule adoption
10.210(17A) Exemptions from public rule-making procedures
10.211(17A) Concise statement of reasons
10.212(17A) Contents, style, and form of rule
10.213(17A) Agency rule-making record
10.214(17A) Filing of rules
10.215(17A) Effectiveness of rules prior to publication
10.216(17A) General statements of policy
10.217(17A) Review by department of rules
10.218(17A) Petition for rule making
10.219(17A) Briefs
10.220(17A) Inquiries
10.221(17A) Agency consideration
10.222(17A) Waivers of rules
10.223 to 10.300 Reserved

CONTESTED CASES

10.301(17A) Scope and applicability
10.302(17A) Definitions
10.303(17A) Time requirements
10.304(17A) Requests for contested case proceeding
10.305(17A) Notice of hearing
10.306(17A) Presiding officer
10.307(17A) Waiver of procedures
10.308(17A) Telephone proceedings

10.309(17A) Disqualification
10.310(17A) Consolidation—severance
10.311(17A) Pleadings
10.312(17A) Service and filing of pleadings and other papers
10.313(17A) Discovery
10.314(17A) Subpoenas
10.315(17A) Motions
10.316(17A) Prehearing conference
10.317(17A) Continuances
10.318(17A) Withdrawals
10.319(17A) Intervention
10.320(17A) Hearing procedures
10.321(17A) Evidence
10.322(17A) Default
10.323(17A) Ex parte communication
10.324(17A) Recording costs
10.325(17A) Interlocutory appeals
10.326(17A) Final decision
10.327(17A) Appeals and review
10.328(17A) Applications for rehearing
10.329(17A) Stays of agency actions
10.330(17A) No factual dispute contested cases
10.331(17A) Emergency adjudicative proceedings
10.332(17A) Burden of proof

CHAPTERS 11 and 12
Reserved

CHAPTER 13
SPECIAL RAILWAY AGENTS

13.1(17A,80) Appointment of railway special agents
13.2(17A,80) Standards
13.3(17A,80) Training requirements
13.4(17A,80) Letter of request
13.5(17A,80) Application form
13.6(17A,80) Photographs
13.7(17A,80) Vision classification
13.8(17A,80) Surety bond
13.9(17A,80) Background investigation
13.10(17A,80) Weapons permit
13.11(17A,80) Renewal of permit
13.12(17A,80) Weapons training
13.13(17A,80) Review of application
13.14(17A,80) Identification card
13.15(17A,80) Notification
13.16(17A,80) Notice of termination of employment

CHAPTERS 14 to 17
Reserved

CHAPTER 18
PARKING FOR PERSONS WITH DISABILITIES

18.1(321L) Scope
18.2(321L) Location
18.3(321L) Dimensions
18.4(321L) Access aisles and loading zones
18.5(321L) Designation
18.6(321L) Numbers of parking spaces for persons with disabilities required in off-street parking facilities
18.7(321L) Persons with disabilities parking at residential facilities

18.8(321L) On-street parking

CHAPTER 19
Reserved

CHAPTER 20
GOVERNOR'S TRAFFIC SAFETY BUREAU

20.1(23USC402,ExecOrd23) Authority
20.2(23USC402,ExecOrd23) Purpose
20.3(23USC402,ExecOrd23) Responsibilities
20.4(23USC402,ExecOrd23) Funding criteria
20.5(23USC402,ExecOrd23) Program requirements

CHAPTER 21
Reserved

CHAPTER 22
REGULATIONS APPLICABLE TO CARRIERS

22.1(321) Safety and hazardous materials regulations
22.2(321) Definitions
22.3(321) Motor carrier safety regulations exemptions
22.4(321) Hazardous materials exemptions
22.5(321) Safety fitness
22.6(321) Out-of-service order
22.7(321) Driver's statement
22.8(321) Planting and harvesting period
22.9(325A) Marking of motor vehicles
22.10(325A) Bills of lading or freight receipts

CHAPTER 23
REFLECTIVE DEVICES ON SLOW-MOVING VEHICLES

23.1(321) Alternative reflective device

CHAPTER 24
SAFETY REQUIREMENTS FOR MOVEMENT OF
IMPLEMENTS OF HUSBANDRY ON ROADWAYS

24.1(321) Safety rules for the movement of implements of husbandry on a roadway

CHAPTERS 25 to 27
Reserved

CHAPTER 28
MARIJUANA ERADICATION PROCEDURES

28.1(80) Reports of marijuana
28.2(80) Cultivated marijuana
28.3(80) Uncultivated marijuana
28.4(80) Scope and limitation

CHAPTER 29
HUMAN TRAFFICKING PREVENTION TRAINING—LODGING PROVIDERS

29.1(80) Definitions
29.2(80) Establishment of training program
29.3(80) Human trafficking prevention training program content
29.4(80) Training providers
29.5(80) Certification for lodging providers and their employees

CHAPTERS 30 to 34
Reserved

CHAPTER 35
COMPLAINTS AGAINST EMPLOYEES

35.1(80)	Definitions
35.2(80)	Filing a complaint
35.3(80)	Notification to complainant
35.4(80)	Investigation requirements of agency

CHAPTERS 36 to 40
Reserved

CHAPTER 41
PAYMENT OF SMALL CLAIMS TO EMPLOYEES

41.1(17A,80)	Authorization to reimburse

CHAPTERS 42 to 52
Reserved

CHAPTER 53
FIRE SERVICE TRAINING BUREAU

53.1(80)	Fire service training bureau
53.2(80)	Programs, services, and fees

CHAPTERS 54 to 79
Reserved

CHAPTER 80
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

80.1(17A,22)	Definition
80.2(17A,22)	Statement of policy
80.3(17A,22)	Requests for access to records
80.4(17A,22)	Procedures for access to confidential records
80.5(17A,22)	Requests for treatment of a record as a confidential record
80.6(17A,22)	Procedure by which a subject may have additions, dissents, or objections entered into the record
80.7(17A,22)	Consent to disclosure by the subject of a confidential record
80.8	Reserved
80.9(17A,22)	Disclosures without the consent of the subject
80.10(17A,22)	Routine use
80.11(17A,22)	Records retention manual
80.12(17A,22)	Data processing system
80.13(22)	Confidential records
80.14(252J)	Release of confidential licensing information for child support recovery purposes
80.15(22,80F)	Release of official photographs of or personal information about employees

CHAPTER 81
CRIMINAL INTELLIGENCE INFORMATION

81.1(692)	Definitions
81.2(692)	Iowa law enforcement intelligence network (LEIN) information system
81.3(692)	Criminal intelligence file security
81.4(692)	Review of criminal intelligence files—purging
81.5(692)	Subpoenas and court orders

CHAPTER 82
CRIMINAL HISTORY AND FINGERPRINT RECORDS

82.1(690,692)	Records and identification section
82.2(690,692)	Definitions
82.3(690,692)	Tracking criminal history data
82.4 to 82.100	Reserved

DIVISION I

CRIMINAL HISTORY DATA
82.101(690,692) Release of information
82.102(690,692) Right of review
82.103(690,692) Review of record
82.104(17A,690,692) Inaccuracies in criminal history record
82.105(17A,690,692) Arresting agency portion of final disposition form
82.106(690,692) Final disposition form
82.107(692) Release of information to the public
82.108(692) Scope of record checks for non-criminal justice agencies and individuals
82.109(692) Fees
82.110(17A,22,692) Requests for criminal history data
82.111(690) Administrative sanctions
82.112(692) Criminal history record checks for qualified entities or authorized agencies
82.113 to 82.200 Reserved

DIVISION II
FINGERPRINT RECORDS
82.201(17A,690,692) Fingerprint files and crime reports
82.202(690) Taking of fingerprints
82.203 to 82.300 Reserved

DIVISION III
JUVENILE RECORDS
82.301(232) Juvenile fingerprints and criminal histories

CHAPTER 83
IOWA SEX OFFENDER REGISTRY
83.1(692A) Sex offender registry established
83.2(692A) Definitions
83.3(692A) Forms and procedures
83.4(692A) Availability of records
83.5(692A) Expungement of records

CHAPTERS 84 to 86
Reserved

CHAPTER 87
WIRELESS COMMUNICATIONS SERVICE PROVIDER DATABASE
87.1(34A) Wireless communications service provider database established
87.2(34A) Definitions
87.3(34A) Administration of database
87.4(34A) Confidentiality
87.5(34A) Database requirements
87.6(34A) Procedures to request provider information

CHAPTER 88
NOTIFICATION OF LAW ENFORCEMENT AGENCY BY HOSPITAL PRIOR TO DISCHARGE OF A PERSON WITH SERIOUS MENTAL IMPAIRMENT
88.1(229) Notification request

CHAPTER 89
MISSING PERSONS
89.1 to 89.99 Reserved

DIVISION I
MISSING PERSON INFORMATION CLEARINGHOUSE
89.100(694) Missing person information clearinghouse
89.101(694) Administration of missing person information clearinghouse
89.102(694) Definitions
89.103(694) Program information
89.104(694) Prevention and education programs and materials

89.105(694) Release of information
89.106(694) Dissemination
89.107(694) Training
89.108 to 89.199 Reserved

DIVISION II
AMBER ALERT PROGRAM

89.200(694) AMBER alert program
89.201(694) Criteria
89.202(694) Activation procedures
89.203(694) Alternative alert if criteria are not satisfied
89.204 to 89.299 Reserved

DIVISION III
BLUE ALERT PROGRAM

89.300(80H) Blue alert program
89.301(80H) Definitions
89.302(80H) Criteria for alert for officer injury or death
89.303(80H) Criteria for alert for missing officer
89.304(80H) Alternative alert if criteria are not satisfied
89.305(80H) Activation procedures
89.306(80H) Information made public
89.307(80H) Termination procedures

CHAPTER 90
Reserved

CHAPTER 91
WEAPONS AND IOWA PROFESSIONAL PERMITS TO CARRY WEAPONS

91.1(724) Definitions
91.2(724) Forms
91.3(724) Federal and state prohibitions—permit to carry weapons
91.4(724) Application procedures for an Iowa professional permit to carry weapons
91.5(724) Issuance or denial of application for permit to carry weapons
91.6(724) Suspension or revocation of permit to carry weapons
91.7(724) Appeals
91.8(724) Reports and remittance to the state
91.9(724) Offensive weapons as collector's items—method of classification
91.10(724) Application for approved training organization for permits to carry weapons
91.11(724) Application procedures for an Iowa educator professional permit
91.12(724) Suspension or revocation of an educator professional permit
91.13(724) Approval of required training for educator professional permit
91.14(724) Educator professional permit training requirements
91.15(724) Curriculum for one-time legal training for an educator professional permit
91.16(724) Curriculum for annual emergency medical training for an educator professional permit
91.17(724) Curriculum for annual communication training for an educator professional permit
91.18(724) Curriculum for annual live scenario training for an educator professional permit
91.19(724) Curriculum for firearms training for an educator professional permit

CHAPTER 92
Reserved

CHAPTER 93
IDENTIFICATION CARDS FOR FORMER PEACE OFFICERS
OF THE IOWA DEPARTMENT OF PUBLIC SAFETY

93.1(18USC926C) General provisions
93.2(18USC926C) Definitions
93.3(18USC926C) Application for former peace officer ID card
93.4(18USC926C) Annual firearms qualification—certification card
93.5(17A) Appeals

CHAPTER 94
Reserved

CHAPTER 95
DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

95.1(809,809A) Definitions
95.2(809,809A) Ammunition and firearms
95.3(809,809A) Firearms inventory
95.4(809,809A) Deposit of firearms in the firearms reference file
95.5(809,809A) Disposition of firearms (interstate)
95.6(809A) Transfer of rifles and shotguns to the department of natural resources
95.7(809,809A) Disposition of firearms (intrastate)
95.8(809,809A) Final disposition and destruction of firearms
95.9(809,809A) Claims
95.10(809,809A) Disposition of explosives
95.11(809,809A) Disposition of weapons other than firearms and explosives

CHAPTERS 96 to 120
Reserved

CHAPTER 121
BAIL ENFORCEMENT, PRIVATE INVESTIGATION, AND PRIVATE SECURITY BUSINESSES

121.1(80A) Licensing
121.2(80A) Definitions
121.3(80A) Persons exempt
121.4(80A) Licenses
121.5(80A) License requirements
121.6(80A) Identification cards
121.7(80A) License and background investigation fees
121.8(80A) Display of license
121.9(80A) Duplicate license
121.10(80A) License renewal
121.11(80A) Employee identification cards
121.12(80A) Badges, uniforms, insignia, patches and hats
121.13(80A) Advertisement, cards, letterhead and the like
121.14(80A) Misleading statements
121.15(80A) Reports
121.16(80A) Denial, cancellation, suspension, or revocation of a license or identification card
121.17(80A) Licensee's duty regarding employees
121.18(80A) Campus weapon requirements
121.19(80A) Professional permit to carry weapons
121.20(80A) Appeals
121.21(252J) Child support collection procedures
121.22(80A) Continuing education requirements
121.23(80A) Reciprocity
121.24(80A) Replacement license
121.25(80A) Private school security officer training requirements

CHAPTERS 122 to 140
Reserved

CHAPTER 141
CLOSED CIRCUIT SURVEILLANCE SYSTEMS

141.1(99F) Definitions
141.2 and 141.3 Reserved
141.4(99F) Closed circuit surveillance system
141.5(99F) Required equipment
141.6(99F) Required surveillance

141.7(99F) Equipment in DCI offices
141.8(99F) Camera lenses
141.9(99F) Lighting
141.10(99F) Surveillance room
141.11(99F) Nongambling hours
141.12(99F) Waivers from requirements

CHAPTERS 142 to 149
Reserved

CHAPTER 150
DIVISION OF CRIMINAL INVESTIGATION CRIMINALISTICS LABORATORY

150.1(691) Criminalistics laboratory
150.2(691) Purpose and scope of work
150.3(691) Laboratory capabilities
150.4(691) Evidence submission to the laboratory
150.5(17A,691) Distribution of reports
150.6(17A,691) Disposition of evidence

CHAPTERS 151 to 155
Reserved

CHAPTER 156
DNA DATABASE

156.1(81) Establishment of DNA database
156.2(81) Definitions
156.3(81) Administration of DNA database
156.4(81) Collection of DNA samples
156.5(81) Submission of DNA samples
156.6(81) Analysis of DNA samples
156.7(81) Identification of DNA samples
156.8(81) Storage of DNA samples
156.9 Reserved
156.10(81) Expungement of DNA samples

CHAPTER 157
DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

157.1(321J) Approval of devices and methods to test for alcohol or drug concentration
157.2(321J) Evidentiary breath testing
157.3(321J) Urine collection
157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory
157.5(321J) Preliminary breath screening test
157.6(123) Chemical test—alcohol concentration—public intoxication
157.7(321J) Detection of drugs other than alcohol

CHAPTER 158
IGNITION INTERLOCK DEVICES

158.1(321J) Scope and authority
158.2(321J) Definitions
158.3(321J) Approval
158.4(321J) Revocation of approval
158.5(321J) Modifications to an approved IID
158.6(321J) Mandatory operational features
158.7(321J) IID security
158.8(321J) IID maintenance and reports
158.9(321J) Other provisions

CHAPTER 159
STATEWIDE SOBRIETY AND DRUG MONITORING PROGRAM

159.1(901D) Program created
159.2 to 159.9 Reserved
159.10(901D) Definitions
159.11(901D) Participating jurisdiction requirements
159.12(901D) Participant requirements
159.13 to 159.19 Reserved
159.20(901D) Testing
159.21 to 159.29 Reserved
159.30(901D) Program fees
159.31 to 159.39 Reserved
159.40(901D) Fees—indigent participants
159.41 to 159.49 Reserved
159.50(901D) Stakeholder group
159.51 to 159.59 Reserved
159.60(901D) Grant program established

CHAPTERS 160 to 173
Reserved

CHAPTER 174
RETAIL SALES OF PSEUDOEPHEDRINE
174.1(81GA,SF169) Electronic logbooks
174.2(81GA,SF169) Reporting of civil penalties

CHAPTERS 175 to 250
Reserved

CHAPTER 251
FIREFIGHTER TRAINING AND CERTIFICATION
251.1(100B) Definitions
251.2 to 251.100 Reserved
MINIMUM TRAINING STANDARDS
251.101(100B) Minimum training standard
251.102(100B) Other training
251.103(100B) Continuing training
251.104(100B) Recordkeeping
251.105 to 251.200 Reserved
FIREFIGHTER CERTIFICATION
251.201(100B) Firefighter certification and accreditation program
251.202(100B) Certification standards
251.203(100B) Fees
251.204(100B) Certification, denial, and revocation of certification

CHAPTERS 252 to 258
Reserved

CHAPTER 259
FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS
259.1 to 259.100 Reserved
DIVISION I
VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND
259.101(17A,77GA,ch1222) Establishment of fund
259.102(17A,77GA,ch1222) Allocations
259.103(17A,77GA,ch1222) Awards to private providers of training
259.104(100B) Paul Ryan memorial fire fighter safety training fund
259.105(100B) Volunteer fire fighter preparedness fund
259.106 to 259.200 Reserved
DIVISION II

FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND
259.201(80GA,ch177) Fire fighting equipment revolving loan fund
259.202(80GA,ch177) Purpose and scope
259.203(80GA,ch177) Definitions
259.204(80GA,ch177) Application process
259.205(80GA,ch177) Allowable acquisitions
259.206(80GA,ch177) Eligibility requirements and restrictions
259.207(80GA,ch177) Loan origination fee and repayment schedule
259.208 to 259.300 Reserved

DIVISION III
REGIONAL TRAINING FACILITY FUNDS
259.301(100B) Regional training center program
259.302(100B) Definitions
259.303(100B) Availability of funds
259.304(100B) Application process
259.305(100B) Processing of submitted applications

CHAPTERS 260 to 290
Reserved

CHAPTER 291
VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS
291.1(100B) Volunteer emergency services provider death benefit program
291.2(100B) Eligibility
291.3(100B) Determination

CHAPTER 292
PUBLIC SAFETY SURVIVOR BENEFITS FUND
292.1(80) Purpose
292.2(80) Definition
292.3(80) Fund eligibility
292.4(80) Procedure

CHAPTERS 293 to 399
Reserved

CHAPTER 400
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—GOVERNANCE AND ADMINISTRATION
400.1(97A) Establishment of system
400.2(97A) Definitions
400.3(97A) Governance
400.4(97A) Meetings of board of trustees
400.5(97A) Administrative support
400.6(97A) Forms and information
400.7(97A) Annual statements
400.8(97A) Books of account
400.9(97A) Investments
400.10(97A) Medical board

CHAPTER 401
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND
DISABILITY SYSTEM—ADMINISTRATIVE PROCEDURES
401.1(97A) Applications
401.2(97A) Determination on initial review
401.3(97A) Applications for reimbursement for medical attention
401.4 to 401.100 Reserved

PROCEDURE FOR RULE MAKING
401.101(17A) Applicability

401.102(17A) Advice on possible rules before notice of proposed rule adoption
401.103(17A) Public rule-making docket
401.104(17A) Notice of proposed rule making
401.105(17A) Public participation
401.106(17A) Regulatory analysis
401.107(17A,25B) Fiscal impact statement
401.108(17A) Time and manner of rule adoption
401.109(17A) Variance between adopted rule and published notice of proposed rule adoption
401.110(17A) Concise statement of reasons
401.111(17A,97A) Agency rule-making record
401.112(17A,97A) Petitions for rule making
401.113(17A,97A) Waivers of rules
401.114 to 401.200 Reserved

DECLARATORY ORDERS

401.201(17A) Petition for declaratory order
401.202(17A) Notice of petition
401.203(17A) Intervention
401.204(17A) Briefs
401.205(17A) Inquiries
401.206(17A) Service and filing of petitions and other papers
401.207(17A) Consideration
401.208(17A) Action on petition
401.209(17A) Refusal to issue order
401.210(17A) Contents of declaratory order—effective date
401.211(17A) Copies of orders
401.212(17A) Effect of a declaratory order
401.213 to 401.300 Reserved

CONTESTED CASES

401.301(17A) Contested case proceeding
401.302(17A) Discovery
401.303(17A) Subpoenas in a contested case
401.304(17A) Motions
401.305(17A) Settlements
401.306(17A) Prehearing conference
401.307(17A) Continuances
401.308(17A) Withdrawals
401.309(17A) Hearing procedures
401.310(17A) Evidence
401.311(17A) Ex parte communication
401.312(17A) Decisions
401.313(17A) No factual dispute contested cases
401.314(17A) Applications for rehearing

CHAPTER 402
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
ELIGIBILITY, BENEFITS, AND PAYMENTS

402.1 to 402.99 Reserved

DIVISION I
ELIGIBILITY

402.100(97A) Age of qualification
402.101(97A) Date of retirement
402.102(97A) Application of Iowa Code Supplement section 97A.6, subsection 12
402.103(97A) Date of death
402.104(97A) Age of spouse
402.105 to 402.199 Reserved

DIVISION II
BENEFITS AND PAYMENTS

402.200(97A) Computation of average final compensation

402.201(97A) Workers' compensation—effect on benefit payment
402.202(97A) Errors in payments
402.203(97A) Initial benefit for a child
402.204(97A) Computation for partial month
402.205(97A) One year of service
402.206(97A) Termination prior to retirement
402.207(97A) Optional retirement benefits
402.208(97A) Options not reversible once payments begin—exceptions
402.209(97A) Method of calculating annual adjustments when optional retirement benefits are selected
402.210(97A) Termination of benefits when optional retirement benefits are selected
402.211(97A) Impact of optional benefit selections on child benefits
402.212(97A) Method of calculating annual adjustment for members who retire on or after July 1, 2010
402.213(97A) Method of calculating annual adjustment for members who retired prior to July 1, 2010
402.214(97A) Determination of survivor's pension
402.215 to 402.299 Reserved

DIVISION III
SERVICE PURCHASES

402.300(97A) Purchase of eligible service credit
402.301(97A) Determination of eligible service
402.302(97A) Determination of cost to member
402.303(97A) Application process
402.304(97A) Service adjustment irrevocable
402.305(97A) Board review
402.306(97A) Other provisions
402.307(97A) Purchase of service credit for military service

CHAPTER 403
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—
LINE-OF-DUTY DEATH BENEFIT

403.1(97A) Member death benefit program
403.2(97A) Application
403.3(97A) Determination

CHAPTERS 404 to 599
Reserved

CHAPTER 600
STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM BOARD

600.1(80) Establishment of board
600.2(80) Definitions
600.3(80) Statewide interoperability coordinator
600.4(80) Board procedures
600.5(80) Administrative procedures
600.6(80) Committees
600.7(80) Board finances
600.8(80) Contracts
600.9(80) Competitive grants
600.10(80) Additional information

CHAPTER 1
THE DEPARTMENT

[Prior to 4/20/88, see Public Safety Department, 680—Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—1.1(17A) Establishment of the department of public safety. The state department of public safety was created by an Act of the General Assembly (Acts of the Forty-eighth General Assembly, chapter 120, 1939) through the consolidation of several departments and divisions to assist coordination among the law enforcement agencies at all levels of government within Iowa.

The department of public safety is primarily a law enforcement agency with the responsibility to enforce state laws and also has other administrative duties.

661—1.2(17A) Organization. The department of public safety is administered by a commissioner who is appointed by and serves at the pleasure of the governor. Bureaus which provide planning and staff support, administer governor's traffic safety programs, conduct staff inspections and investigate complaints against officers of the department report directly to the commissioner. The rest of the department is divided into the following eight divisions: administrative services, state patrol, capitol security, communications, fire marshal, criminal investigation, state medical examiner, and narcotics enforcement.

1.2(1) The administrative services division, through its bureaus, provides primary support services to all line elements in the general field of business administration, data processing, collections, and office management.

1.2(2) The division of state patrol is a law enforcement agency that primarily regulates the orderly flow of traffic on the state's highways, and responds to local law enforcement agencies' requests for emergency assistance. Peace officer members of this division have a duty to detect and apprehend criminals and enforce all state laws. Iowa Code section 321.2 imposes motor vehicle law enforcement duties upon this division and the commissioner may and does assign to this division other law enforcement responsibilities.

This division also assigns officers to the promotion of motor vehicle and other safety education, and will provide emergency transportation of substances needed by doctors, veterinarians, or hospitals, and support security for special events. Any citizen requesting such services may contact division or district headquarters, the addresses for which are listed in this chapter.

This division is also responsible for the highway emergency long-distance phone (HELP). Anyone calling 1-800-525-5555 from anywhere in Iowa will be connected with someone at the district headquarters in Des Moines who will try to provide immediate assistance.

1.2(3) The division of capitol security is a law enforcement agency which performs police and security work, regulates the orderly flow of traffic, and preserves the peace in and around the seat of state government and at Terrace Hill.

1.2(4) The communications division provides total police communications to the public safety sector including the department of public safety, police departments, sheriffs' offices, and other local state and federal criminal justice agencies.

1.2(5) The fire marshal division is responsible for the promotion and enforcement of fire safety, fire protection, elimination of fire hazards, and the enforcement of laws, rules and regulations concerned with fire prevention, such as the storage, transportation, handling, and use of inflammable liquids, combustibles, explosives, and liquid petroleum gas, and inspection of electric wiring, heating, and adequate fire exits for public buildings.

This division is also responsible for investigation into the cause, origin and circumstances of fires and the enforcement of all laws relating to the suppression of arson and apprehension of those persons suspected of arson. These functions are performed through the bureau of fire prevention and the bureau of arson and explosives.

1.2(6) The division of criminal investigation is a law enforcement unit that conducts criminal investigations, enforces Iowa's beer and liquor laws under Iowa Code chapter 123, pari-mutuel laws under

Iowa Code chapter 99D, and lottery laws under Iowa Code chapter 99E, maintains the state's central repository for all criminal history records, and operates the state criminalistics laboratory.

1.2(7) The division of state medical examiner provides assistance, consultation and training to county medical examiners and law enforcement officials, keeps records concerning deaths or crimes requiring investigation by this division. The state medical examiner receives reports of deaths in Iowa affecting the public interest and may require autopsies.

1.2(8) The division of narcotics enforcement has statewide primary responsibility for providing investigative law enforcement relating to narcotics and other controlled substances. Assistance is provided to county and city agencies by providing related intelligence information, special purpose investigative moneys and investigative assistance and training.

661—1.3(17A) Offices.

1.3(1) Principal office. The principal office for the department is that of the commissioner in the State Public Safety Headquarters Building in the Capitol Complex in Des Moines. Its mailing address is the Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

1.3(2) Division offices. The principal offices of the divisions of the department are also located in the State Public Safety Headquarters Building.

1.3(3) Addresses of district headquarters, fire marshals, radio stations and other offices located outside the principal headquarters may be obtained at the Department of Public Safety's principal office in the State Public Safety Headquarters Building.

[Editorial change: IAC Supplement 2/11/09]

661—1.4(17A) Methods by which and location where the public may obtain information or make submissions or requests.

1.4(1) Persons wishing to obtain information from or report information to the department may contact any of the offices in 1.3(17A).

1.4(2) Those wishing to make submissions to the department may do so by delivering or forwarding to the administrative services division of the department, the principal offices of the affected division or, if the subject matter is relevant to a specific geographical location, the nearest office as listed in 1.3(17A).

1.4(3) Those making requests of the department may submit such request to the administrative services division or the principal office of the division that would provide the information or as may otherwise be provided in these rules.

1.4(4) Communication of information regarding conflicts with the department, declaratory rulings or rules or initiation of rule making by the department shall be directed to the administrative services division as provided in 661—Chapter 10.

1.4(5) Accident reports filed as required by Iowa Code section 321.266 and which are retained by the department are available to any party to an accident, the party's insurance company or its agent, or the party's attorney on written request and the payment of a $4 fee for each copy, paid to the department of public safety. Such request shall be made to the state patrol district headquarters in the district in which the accident occurred.

1.4(6) Reports by the Iowa state patrol division concerning motor vehicle accidents regarding observations, measurements, and examinations of physical evidence including photographs may be made available to any party to the accident or the party's legal representative or insurance company if the investigation of the accident is complete and the release of the information will not interfere with appropriate criminal proceedings or future investigations.

1.4(7) Records of the department subject to inspection under the Iowa public records Act, Iowa Code chapter 22, which are not privileged under Iowa Code section 622.11, or are not required or permitted to be held in confidence by Iowa Code chapter 692, or other applicable provisions of law, may be examined in the offices of the department in accordance with the provisions of the Iowa public records Act and these rules.

This rule is intended to implement Iowa Code chapters 17A and 80 and section 321.271.

661—1.5 Rescinded, effective March 6, 1986.

661—1.6(17A) Legal advice. The attorney general of the state provides legal advice to the commissioner and employees of the department.

661—1.7(17A) Surety companies. When the Iowa Code requires the commissioner to approve a corporate surety company, approval by the insurance division of the Iowa department of commerce shall be required, and if that approval has been acquired and is continuing, the commissioner's approval will be extended.

661—1.8(17A) Construction of rules. All of the rules of the commissioner and the department are promulgated to describe the department and its procedure, to elaborate on or define some statutory language and to regulate some activities. Each of the sections of chapter 4 of the Iowa Code are hereby adopted by reference so as to apply when construing these rules. When the words "statutes" or "general assembly" appear in chapter 4, it is intended the words "rules" and "commissioner" are to be inserted in lieu thereof. Each of the sections of chapter 4 are adopted by reference at least so far as is applicable and not inconsistent with the intent of these rules or repugnant to the context of these rules.

These rules are intended to implement Iowa Code section 17A.3.

[Filed June 30, 1975]
[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 12/16/83, Notice 9/14/83—published 1/4/84, effective 2/9/84]
[Filed 1/10/86, Notice 11/20/85—published 1/29/86, effective 3/6/86]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Editorial change: IAC Supplement 2/11/09]

CHAPTER 2
BAIL ENFORCEMENT, PRIVATE INVESTIGATION AND PRIVATE SECURITY BUSINESSES

[Prior to 4/20/88, see Public Safety Department [680] Ch 2]

Rescinded IAB 11/23/05, effective 1/1/06

CHAPTER 3
SHERIFF'S UNIFORMS

[Appeared as rules 2.200 to 2.209 prior to 6/27/79]
[Ch 3 as appeared prior to 6/27/79 rescinded with the exception of rule 3.13 renumbered at 7.1 to 7.5]
[Prior to 4/20/88, see Public Safety Department, [680] Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—3.1(17A,331) General provisions. These rules are adopted to designate the color and design of the standard uniform that each Iowa sheriff and deputy sheriff shall wear when in uniform and accessories.

3.1(1) The specifications of the uniforms and accessories, such as fabric and style, are made available to the department of general services. These details are not reproduced in these rules because some minor details may change due to unavailability of certain materials, but a copy of these specifications is available at the commissioner's office.

3.1(2) Persons wanting to enter bids on the sheriffs' uniforms and accessories should contact the department of general services. The department of general services will provide the specifications for the uniforms and accessories.

661—3.2(17A,331) Trousers. The trousers shall be sage green in color, have a one-inch strip of material the same color as the shirts down the outside seam of each pant leg, have seven one-inch belt loops with no cuffs, no watch pocket or billy pockets and no flaps on the rear pockets.

661—3.3(17A,331) Shirts. The shirts shall be of two styles, long and short sleeved with two-breasted pockets pleated with three-pointed flags and corners that snap. The shoulder ornaments shall be of the same material and color as the trousers.

The short-sleeved shirt shall have a sport collar and no V notch or hemmed cuffs.

661—3.4(17A,331) Hats. There shall be four types of hats:

Winter hat. The winter hat shall be sage green in color with a swivel strap, three-inch brim and will be worn with a gold metallic acorn cord.

Summer hat. The summer hat shall be sage green in color with a swivel strap, three-inch brim, and metal eyelet for a badge.

Winter fur hat. The winter fur hat shall be sage green in color with sage green fur trim and have waterproofed quilted lining.

Cap. The cap shall be green in color and of ridgeway style.

661—3.5(17A,331) Ties. The ties shall be sage green in color and be three and one-half inches at the widest point. The ties shall be of the clip-on style with extra long plastic wings to go under the collar.

661—3.6(17A,331) Raingear. Raingear shall consist of a raincoat, rainhats, and rubber footwear.

Raincoat. The raincoat shall be forest green in color and be reversible to international orange and have two zipped vents on each side for a weapon.

Rainhat. The rainhats shall fit both the summer and winter hat and be made of vinyl film.

Rubber footwear. The rubber footwear shall be black in color and be either zipper overshoes or low-cut rubbers.

661—3.7(17A,331) Shoes and boots. The shoes and boots shall be black in color, and be plain, round-toed style.

661—3.8(17A,331) Gloves. The gloves shall be black capeskin and for winter, lined.

661—3.9(17A,331) Jackets. There shall be three types of jackets.

Light duty jacket. The color shall be sage green and the jacket shall be waist length with elastic in the waistband. It shall zip up the front and the coat style sleeves shall have no buttons on the cuffs. The shoulder straps shall be of the same material as the jacket and be sewed down.

Ike-type dress jacket. The color shall be pink tan to match the shirt and the jacket shall have plain coat sleeves, zip up the front and have zip side vents for a weapon.

Reefer-type car jacket. The color shall be sage green and the jacket shall have a permanent liner with inside pockets, be single breasted of midlength, have a two-way zipper down the front, two breast flap pockets, two lower slash pockets, and two zippered side vents, one on each side.

The uniform shall also include socks, blazers with slacks to match and a jumpsuit.

661—3.10(17A,331) Accessories. Accessories shall consist of shoulder and blazer emblems, safety helmets, badges, whistle and chain, name bar, ID badge case, handcuffs and case, firearms and holsters, tie accessories, chemical mace and holder, nightsticks, rank insignia, equipment belt, reversible style inner belt, baton holder, key strap, cartridge case and clip holder.

These rules are intended to implement Iowa Code sections 331.322 and 331.657.

[Filed 6/30/75]

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

CHAPTER 4
WEAPONS

[Appeared as rules 2.300 to 2.305 prior to 6/27/79]
[Rules 4.1, 4.2, 4.4 and 4.7 as appeared prior to 6/27/79 rescinded, 4.3 renumbered as 11.1 to 11.7, 4.5 renumbered as 12.1 to 12.11, 4.6 renumbered as 13.1 to 13.16]
[Prior to 4/20/88, see Public Safety Department, 680—Ch 4]

DIVISION I
WEAPONS PERMITS

Rescinded IAB 5/9/07, effective 7/1/07; see 661—Chapter 91.

DIVISION II
DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

Rescinded IAB 5/9/07, effective 7/1/07; see 661—Chapter 95.

CHAPTER 5
FIRE MARSHAL ADMINISTRATION

[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department[680] Ch 5]
Rescinded IAB 11/18/09, effective 1/1/10

CHAPTER 6
VEHICLE IMPOUNDMENT

[Ch 6 as appeared before 6/27/79 rescinded]
[Prior to 4/20/88, see Public Safety Department[680] Ch 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—6.1(17A,321) Vehicle impoundment. The patrol division and other peace officer members of the department may impound any vehicle determined to be "abandoned" as defined in Iowa Code section 321.89(1)*"a,"* provided that:

1. The officer shall first attempt to determine the owner through department of transportation records and request that the communications division advise an owner found thereby that the vehicle must be moved within a reasonable time or it will be impounded, and
2. Either the owner cannot be found or the owner fails to remove the vehicle within a reasonable time.

[**ARC 4800C**, IAB 12/4/19, effective 1/8/20]

661—6.2(17A,321) Vehicles which may be impounded immediately.

6.2(1) Vehicles which an officer has reason to believe are wrongfully possessed by the person then having control of such vehicles or on which the vehicle identification number or the identification numbers of any component part have been altered or defaced, or on which an attempt to alter or deface has been made.

6.2(2) Vehicles which are involved in an accident when immediate impoundment is necessary:

a. To preserve evidence which will be used in an administrative or judicial proceeding; or

b. To protect the vehicle from theft or further damage when the driver or owner is unavailable or incapable to give consent to such impoundment or make other arrangements for the vehicle; or

c. To prevent further accidents when the vehicle is so situated as to appear to constitute a hazard to traffic.

6.2(3) Vehicles which an officer has probable cause that the vehicle is being used to transport contraband.

6.2(4) Vehicles involved in a person's death when the medical examiner or a peace officer determines:

a. That seizure is necessary to secure evidence needed in the investigation, including but not limited to an investigation of the cause and manner of death.

b. That circumstances indicate the vehicle may be removed or tampered with before written authorization for its impoundment can be obtained, or that written authorization for impoundment has been refused or is impracticable.

c. That the vehicle is situated on a public highway in such a manner that it may constitute a hazard to traffic.

6.2(5) Vehicles under the control of a person at the time of arrest:

a. If the arrested person's vehicle reasonably appears to a peace officer to constitute a traffic hazard if it remains where it is situated at the time of arrest and the arrested person is unwilling or unable to have it moved; or

b. If the vehicle is not capable of legal operation or the vehicle is not legally parked under state or local code or ordinance; or

c. To preserve evidence which will be used in an administrative or judicial proceeding; or

d. To protect the vehicle from theft or further damage when the driver or owner is unavailable or incapable to give consent to such impoundment or make other arrangements for the vehicle.

6.2(6) Vehicles positioned upon a public highway in such a manner that may constitute a hazard to traffic.

[**ARC 4800C**, IAB 12/4/19, effective 1/8/20]

661—6.3(17A,321) Vehicles which need not be impounded immediately. If a vehicle is unattended, an officer shall tag it. A record is kept by the officer at the district to which the officer is assigned. After the period of time prescribed in Iowa Code section 321.89, the unattended vehicle shall be declared an abandoned vehicle.

[**ARC 4800C**, IAB 12/4/19, effective 1/8/20]

661—6.4(17A,321) Impoundment procedure.

6.4(1) Prior to towing an impounded vehicle, the officer shall:

a. Request that a tow truck be dispatched to remove the vehicle.

b. Complete a vehicle tow-in and recovery report which includes the following information:

(1) Reason for towing;

(2) The license number and description of the vehicle including its condition at the time of impoundment;

(3) Vehicle identification number and registration information, when readily accessible.

c. Instruct the towing service to tow the vehicle to a designated location, which in the case of an abandoned vehicle shall be the towing service's storage area.

6.4(2) Within 24 hours of towing an impounded vehicle, the officer shall:

a. Complete an inventory of all property in the vehicle and a notation of any parts of the vehicle which appear to be missing or damaged. The inventory is a record which is intended for use in ensuring the safe return of the lawful possessor's property and resolving questions regarding the condition or contents of the vehicle.

b. Add to the vehicle tow-in and recovery report information indicating the circumstances of recovery of the vehicle and notification of the owner if the vehicle is believed to be stolen or operated without the consent of the owner.

EXCEPTION: The inventory and completion of the report may be delayed beyond 24 hours after towing of the impounded vehicle has occurred if completion within a 24-hour period is rendered impracticable by road or weather conditions or by the volume of impounded vehicles requiring processing during a limited period of time. Such an extension of time shall be granted automatically if the office processing the vehicles is affected by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 and may otherwise be granted by written permission of the commander of the district or zone office or another supervisor designated by the commander of the officer responsible for processing an impounded vehicle. The reason for any delay in completing the inventory and report beyond 24 hours after towing a vehicle shall be noted in the report. In any event, the inventory and report shall be completed as soon as practicable after towing the vehicle.

This rule is intended to implement Iowa Code sections 80.9(2)*"a"* and 321.89.

[**ARC 4800C**, IAB 12/4/19, effective 1/8/20]

661—6.5(17A,321) Abandoned vehicles. If the vehicle is impounded pursuant to rule 661—6.1(17A,321):

6.5(1) The district officer in charge of abandoned vehicles shall notify, within 20 days of impoundment, by certified mail, the last known registered owner of the vehicle and all lienholders of record, addressed to their last known address of record, that the abandoned vehicle has been impounded. Such notice shall state:

a. The location of the vehicle.

b. That the person or persons notified have the right to reclaim the vehicle within 21 days of notice upon payment of all towing, preservation and storage charges resulting from impoundment.

c. That failure to reclaim the vehicle within 21 days will constitute a waiver of all right, title, claim and interest in the vehicle and will also constitute the giving of consent to sale or disposal of the vehicle.

d. That a written objection to the impoundment may be filed in accordance with subrule 6.5(3).

6.5(2) When the district officer in charge of abandoned vehicles is unable to determine the identity or address of the last known registered owner or of any lienholders of record, the officer shall cause to be published once in a newspaper of general circulation in the area where the abandoned vehicle was found, a notice containing all the information otherwise required by subrule 6.5(1).

6.5(3) Registered owners or lienholders of record may, within the 21-day reclamation period, submit a written objection to the initial impoundment or to any procedure followed by the patrol officer or towing agent. Such objection shall contain an explanation of why the objector believes the impoundment was not authorized by law. When an objection is received by the district officer in charge of abandoned vehicles, such officer shall:

a. Immediately consider the objection and make an initial decision as to the legality of the impoundment,

b. Immediately thereafter notify the objector of the decision. Such notice shall state either:

(1) That the impoundment was authorized by law, and explain the basis of such decision, or

(2) That the impoundment was not authorized by law, that the vehicle will be released to the objector upon presentation of proof of ownership at district headquarters, and that no towing or storage fees will be assessed for 21 days, and

c. File a copy of the notice required by subrule 6.5(3), paragraph *"b,"* with other documents kept in connection with the impoundment.

6.5(4) The registered owner and any lienholders of record have 21 days in which to reclaim the vehicle after mailing or date of publication of notice as prescribed in subrules 6.5(1) and 6.5(2), except where written objection to impoundment has been made in accordance with subrule 6.5(3), in which case the 21-day period shall begin when notice of the district officer's response to the objection is mailed. An additional 14 days will be allowed if the owner or any lienholder submits a written request for an extension of the 21-day reclamation period.

6.5(5) If the reclamation period has expired, and either the registered owner or any lienholder of record has made no written objection to the impoundment, or an objection has been filed and the district officer has determined that the impoundment was authorized by law, then all rights of the owner or of any lienholders of record with regard to the impounded vehicle are forfeited and the vehicle will be either:

a. Sold for use upon the highway after an inspection and certification that it is safe for such use in accordance with Iowa Code section 321.238; or

b. Sold for junk, demolished, and sold as scrap, or

c. Sold as provided in Iowa Code section 321.88 with a restricted certificate of title and not for use on the highways.

6.5(6) When the vehicle is sold:

a. The circumstances of the sale shall be entered in appropriate records kept by the district officer in charge of abandoned vehicles.

b. The required department of transportation forms shall be completed by the officer, given to the purchaser, and mailed to the abandoned vehicle section of the motor vehicle division of the department of transportation. The motor vehicle division shall then take action regarding the funds collected or expended.

6.5(7) If the registered owner or any lienholders of record have filed written objection to the impoundment in accordance with subrule 6.5(3) and the district officer has determined that the impoundment was not authorized by law, towing and storage fees will not be assessed unless the objector, after receipt of notice of such determination, fails to reclaim the vehicle within the reclamation period provided in subrule 6.5(4). If the vehicle is not reclaimed during the reclamation period, said fees shall be deemed "abandoned," and subject to forfeiture and sale if not claimed within 60 days of receipt of notice from the district officer pursuant to subrule 5.4(3).

661—6.6(321) Scope. Nothing in this chapter shall be construed to limit an officer's authority to seize or search an individual, vehicle, or location upon probable cause or as otherwise justified by law.

These rules are intended to implement Iowa Code sections 80.9(2)*"a"* and 321.89 and *Florida v. Wells,* 110 Sup. Ct. 1632.

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 4/22/83, Notice 3/16/83—published 5/11/83, effective 6/15/83]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed emergency 7/30/90—published 8/22/90, effective 8/1/90]
[Filed emergency 2/1/91—published 2/20/91, effective 3/1/91]
[Filed 2/1/91, Notice 8/22/90—published 2/20/91, effective 3/27/91][1]
[Filed 10/24/91, Notice 8/7/91—published 11/13/91, effective 1/1/92]
[Filed emergency 6/30/08—published 7/30/08, effective 7/1/08]

[Filed ARC 4800C (Notice ARC 4667C, IAB 9/25/19), IAB 12/4/19, effective 1/8/20]

[1] Effective date of 3/27/91 delayed 70 days by the Administrative Rules Review Committee at its meeting held March 11, 1991. Delay lifted, effective 5/16/91.

CHAPTER 7
IGNITION INTERLOCK DEVICES

[Ch 7 as appeared prior to 6/27/79 rescinded]
[Rules 7.1 to 7.5 appeared as rule 3.13 prior to 6/27/79]
[Prior to 4/20/88, see Public Safety Department[680] Ch 7]

Rescinded IAB 7/1/09, effective 10/1/09

CHAPTER 8
CRIMINAL JUSTICE INFORMATION

[Prior to 4/20/88, see Public Safety Department[680] Ch 8]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—8.1 to **8.100** Reserved.

DIVISION I
IOWA ON-LINE WARRANTS AND ARTICLES SYSTEM

[Prior to 8/16/95, see 661—8.1 to 8.101]

661—8.101(80,692) Iowa on-line warrants and articles (IOWA) criminal justice information system. The Iowa on-line warrants and articles (IOWA) criminal justice information system is administered by the division of administrative services, field services bureau. The IOWA system, created pursuant to Iowa Code paragraph 80.9(2)*"d"* and Iowa Code section 692.14, provides criminal justice agency access to traffic record and criminal justice databases through a dedicated telecommunications network. To be eligible for access to the IOWA system, an agency must be a criminal justice agency at the federal, state, or local level within Iowa, or an agency providing services to criminal justice agencies in Iowa.

661—8.102(80,692) Information available through the IOWA system. The IOWA system provides access to databases from various state agencies within Iowa, from the Federal Bureau of Investigation's National Crime Information Center (NCIC), and from the motor vehicle departments of other states nationally through the National Law Enforcement Telecommunications System (NLETS). Information on an international basis is also provided by NCIC and NLETS through interfaces to Canadian Police Information Centre and to INTERPOL. The NLETS system also provides administrative message traffic between Iowa criminal justice agencies and criminal justice agencies throughout the United States.

The IOWA system allows criminal justice agencies to:

1. Access nationwide computerized banks of information such as wanted, missing, and unidentified persons; stolen vehicles; stolen articles; stolen boats; stolen guns and stolen securities.
2. Access driver license and motor vehicle information in-state as well as out-of-state.
3. Exchange criminal history information on a national basis.
4. Communicate by use of administrative messages with other criminal justice agencies worldwide.

661—8.103(80) Human immunodeficiency virus-related information. An agency may enter human immunodeficiency virus-related (HIV) information into a wanted or missing person file of the IOWA system and the National Crime Information Center operated by the Federal Bureau of Investigation. HIV information shall be kept confidential and may be communicated only in accordance with this rule.

8.103(1) HIV information on an individual entered into the IOWA system or the National Crime Information Center operated by the Federal Bureau of Investigation shall be made available to terminal operators for the purpose of informing individuals who are authorized access pursuant to this rule.

8.103(2) HIV information may be communicated to:

a. Employees and supervisors of employees of a law enforcement agency who have, or are expected to have, direct physical control of an individual reported to be HIV positive.

b. Employees and supervisors of employees subject to the jurisdictional supervision of the Iowa department of corrections who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

c. Employees and supervisors of employees of secure facilities for juveniles subject to the jurisdiction of the Iowa department of human services who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

d. Employees and supervisors of employees of city and county jails who have, or are expected to have, direct physical supervision of an individual reported to be HIV positive.

8.103(3) HIV information shall not be transmitted over any law enforcement radio broadcasting system, cellular telephone system, radio telephone system, or any other radio-based communications system. This provision shall not apply to the transmission of HIV information in data form to or from mobile digital terminals or mobile digital computers authorized access to the IOWA system and operated by a law enforcement officer or certified IOWA system operator in the performance of official duties.

8.103(4) Individuals who receive HIV information pursuant to this rule shall use the information solely for the purpose of the protection of those individuals having or expected to have direct contact with individuals reported to be HIV positive, and for the prevention of the spread of the HIV virus. Information shall be provided only to individuals and their supervisors who have direct physical contact with persons reported to have the HIV virus. Except as provided in subrule 8.103(2), information obtained pursuant to this rule shall not be communicated to any person not employed by the agency employing the person providing it or used outside the agency for any purpose.

8.103(5) Individuals who are authorized to receive HIV information pursuant to this rule shall receive training developed and established by the commissioner of public safety, in cooperation with the department of corrections and the department of public health, regarding the confidentiality standards applicable to HIV information received from the IOWA system or the National Crime Information Center.

661—8.104(80,692) IOWA system security. IOWA system terminal access shall be available to criminal justice agencies as defined by Iowa Code section 692.1(7). Prior to being permitted terminal access to the IOWA system, a criminal justice agency shall meet the following criteria:

8.104(1) All terminals shall be located within the facilities or vehicles of authorized agencies where appropriate physical security can be maintained.

8.104(2) The immediate terminal areas shall be restricted to prevent access by unauthorized individuals.

8.104(3) All persons accessing NCIC and the criminal history files shall have been authorized to operate the terminal by the criminal justice agency administrator, been approved by the department of public safety, received the required training and achieved proficiency certification by the department of public safety.

Agencies shall complete a background investigation on all applicants for positions with access to NCIC and criminal history files. Agencies shall notify the department of public safety of the completion of the required background investigation. The background investigation shall be done to ensure the following:

a. That the applicant is 18 years of age or older at the time of appointment to the position.

b. That the applicant is not addicted to drugs or alcohol.

c. That the applicant is of good moral character and has not been convicted of a serious crime.

d. Agencies shall submit two fingerprint cards on all applicants to the Iowa division of criminal investigation. One card will be used to check for any Iowa criminal history and the second card will be forwarded to the FBI for a national search of criminal history records.

8.104(4) Where IOWA system terminals are not operated on a 24-hour-per-day basis, the terminals shall be physically secured when unattended.

8.104(5) The criminal justice agency administrator shall be directly responsible for ensuring that information received from the IOWA system is restricted for the official use of agency personnel, other criminal justice agencies, or other agencies authorized, in writing, by the department of public safety.

8.104(6) Any agency desiring direct access to IOWA system files shall make application to the department. Before authorization is granted, the administrator of the applying agency shall enter into a written agreement with the department of public safety agreeing to abide by all rules, policies and procedures promulgated by the department for system operation, security and discipline. The agreement shall reserve to the department the right to terminate furnishing criminal history or other file information to the applicant agency if abuses are discovered concerning either the security or dissemination requirements of this data.

8.104(7) Any agency which has had its authorization to IOWA system files terminated by the department may appeal the termination to the commissioner of public safety, in accordance with 661—Chapter 10.

661—8.105(80,692) Subpoenas and court orders. Any agency or individual in possession of criminal history data received from the department that is served with a subpoena, court order, request for production or other legal process demanding the production of criminal history data, shall notify the department in writing so that the department has an opportunity to make a timely resistance.

661—8.106 to **8.300** Reserved.

These rules are intended to implement Iowa Code sections 80.9 and 692.14.

DIVISION II
CRIMINAL INTELLIGENCE INFORMATION

Rescinded IAB 11/8/06, effective 1/1/07; see 661—Chapter 81

DIVISION III
IOWA SEX OFFENDER REGISTRY

Rescinded IAB 2/16/05, effective 4/1/05; see 661—Ch 83

[Filed June 30, 1975]
[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 1/10/86, Notice 11/20/85—published 1/29/86, effective 3/6/86]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed emergency 9/27/94—published 10/26/94, effective 10/1/94]
[Filed emergency 6/29/95—published 7/19/95, effective 7/1/95]
[Filed 7/26/95, Notice 3/1/95—published 8/16/95, effective 10/1/95]
[Filed 10/30/97, Notice 7/2/97—published 11/19/97, effective 1/1/98]
[Filed emergency 6/26/98—published 7/15/98, effective 7/1/98]
[Filed emergency 6/30/99—published 7/28/99, effective 7/1/99]
[Filed emergency 6/29/00—published 7/26/00, effective 7/1/00]
[Filed 2/22/01, Notice 7/26/00—published 3/21/01, effective 5/1/01]
[Filed emergency 4/30/01—published 5/30/01, effective 5/1/01]
[Filed emergency 6/5/02—published 6/26/02, effective 7/1/02]
[Filed emergency 4/24/03—published 5/14/03, effective 5/1/03]
[Filed emergency 7/13/04—published 8/4/04, effective 7/15/04]
[Filed 1/26/05, Notice 9/29/04—published 2/16/05, effective 4/1/05]
[Filed 10/19/06, Notice 9/13/06—published 11/8/06, effective 1/1/07]

CHAPTER 9
COMPLAINT AGAINST AN EMPLOYEE

[Ch 9 as appeared prior to 6/27/79 is published as follows: Rule 9.1 rescinded and 9.100 to 9.105 renumbered as 15.1 to 15.6]
[Prior to 4/20/88, see Public Safety Department[680] Ch 9]

Rescinded IAB 11/8/06, effective 1/1/07

CHAPTER 10
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF PUBLIC SAFETY

[Ch 10 as appeared in 1973 IDR, transferred to Transportation Department]
[Prior to 4/20/88, see Public Safety Department, 680—Ch 10]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—10.1(17A) Definitions. The following definitions apply to this chapter unless otherwise specified.

"Commissioner" means the commissioner of the department of public safety.

"Department" means the department of public safety.

"Waiver" or *"variance"* means an action by the department which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

661—10.2 to **10.100** Reserved.

DECLARATORY ORDERS

661—10.101(17A) Petition for declaratory order. Any person may file a petition with the department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department, at the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PUBLIC SAFETY

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 661—10.107(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

[Editorial change: IAC Supplement 2/11/09]

661—10.102(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the department shall give notice of the petition to all persons not served by the petitioner pursuant to 661—10.106(17A) to whom notice is required by any provision of law. The department may also give notice to any other persons.

661—10.103(17A) Intervention.

10.103(1) Any person who qualifies under any applicable provision of law as an intervenor and who files a petition for intervention within 20 days of the filing of a petition for declaratory order (after time for notice under 661—10.102(17A) and before 30-day time for agency action under 661—10.108(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

10.103(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department.

10.103(3) A petition for intervention shall be filed at the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The department shall provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PUBLIC SAFETY

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

[Editorial change: IAC Supplement 2/11/09]

661—10.104(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

661—10.105(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

[Editorial change: IAC Supplement 2/11/09]

661—10.106(17A) Service and filing of petitions and other papers.

10.106(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order

shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

10.106(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

10.106(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 661—10.312(17A).

[Editorial change: IAC Supplement 2/11/09]

661—10.107(17A) Consideration. Upon request by petitioner, the department may schedule a brief and informal meeting between the original petitioner, all intervenors, and the department, a member of the department, or a member of the staff of the department, to discuss the questions raised. The department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

661—10.108(17A) Action on petition.

10.108(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the commissioner of public safety or the commissioner's designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

10.108(2) The date of issuance of an order or of a refusal to issue an order is as defined in rule 661—10.302(17A).

661—10.109(17A) Refusal to issue order.

10.109(1) The department shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue an order.
3. The department does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the department to determine whether a statute is unconstitutional on its face.
11. The petition relates to any criminal investigation.

12. The petition concerns any procedure or practice of the department or any other agency related to initiation or conduct of criminal investigations or referral of matters for possible criminal investigation or prosecution.

10.109(2) A refusal to issue a declaratory order shall indicate the specific grounds for the refusal, unless it pertains to a matter under criminal investigation, or which has been referred for possible criminal prosecution, in which event no information which might compromise the investigation or prosecution shall be released to the petitioner or any intervenor. A refusal to issue a declaratory order constitutes final agency action on the petition.

10.109(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

661—10.110(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

661—10.111(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to each original petitioner and to each intervenor.

661—10.112(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

661—10.113 to **10.200** Reserved.

AGENCY PROCEDURE FOR RULE MAKING

661—10.201(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the department are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

661—10.202(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the department may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1)*"a,"* solicit comments from the public on a subject matter of possible rule making by the department by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment.

661—10.203(17A) Public rule-making docket.

10.203(1) *Docket maintained.* The department shall maintain a current public rule-making docket.

10.203(2) *Anticipated rule making.* The rule-making docket shall list each anticipated rule-making proceeding. A rule-making proceeding is deemed "anticipated" from the time a draft of proposed rules is distributed for internal discussion within the department, with the approval of the commissioner of public safety. For each anticipated rule-making proceeding the docket shall contain a listing of the precise subject matter which may be submitted for consideration by the rule-making authority for subsequent proposal under the provisions of Iowa Code section 17A.4(1)*"a,"* the name and address of department personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the department of that possible rule. The department may also include in the docket other subjects upon which public comment is desired.

10.203(3) *Pending rule-making proceedings.* The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action pursuant to Iowa Code section 17A.4(1) *"a,"* to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

a. The subject matter of the proposed rule;

b. A citation to all published notices relating to the proceeding;

c. Where written submissions on the proposed rule may be inspected;

d. The time during which written submissions may be made;

e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;

f. Whether a written request for the issuance of a regulatory analysis, or a concise statement of reasons, has been filed, whether such an analysis or statement or a fiscal impact statement has been issued, and where any such written request, analysis, or statement may be inspected;

g. The current status of the proposed rule and any department determinations with respect thereto;

h. Any known timetable for department decisions or other action in the proceeding;

i. The date of the rule's adoption;

j. The date of the rule's filing, indexing, and publication;

k. The date on which the rule will become effective; and

l. Where the rule-making record may be inspected.

661—10.204(17A) Notice of proposed rule making.

10.204(1) *Contents.* At least 35 days before the adoption of a rule the department shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

a. A brief explanation of the purpose of the proposed rule;

b. The specific legal authority for the proposed rule;

c. Except to the extent impracticable, the text of the proposed rule;

d. Where, when, and how persons may present their views on the proposed rule; and

e. Where, when, and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the department shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the department for the resolution of each of those issues.

10.204(2) *Incorporation by reference.* A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to the incorporation by reference of other materials in an adopted rule that are contained in subrule 10.212(2) of this chapter.

10.204(3) *Copies of notices.* Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the department shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the department for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of one year. The price for such a subscription can be obtained from the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, at the address above, by telephone at (515)725-6185, or by electronic mail via the Internet at admrule@dps.state.ia.us.

[Editorial change: IAC Supplement 2/11/09]

661—10.205(17A) Public participation.

10.205(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or the person or office designated in the Notice of Intended Action.

10.205(2) *Oral proceedings.* The department may, at any time, schedule an oral proceeding on a proposed rule. The department shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the department by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons. That request must also contain the following additional information:

1. A request by one or more individual persons must be signed by each of them and include the address and telephone number of each of them.

2. A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.

3. A request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing that request.

10.205(3) *Conduct of oral proceedings.*

a. Applicability. This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1)*"b"* as amended by 1998 Iowa Acts, chapter 1202, section 8, or this chapter.

b. Scheduling and notice. An oral proceeding on a proposed rule may be held in one or more locations and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. Presiding officer. The commissioner of public safety or the commissioner's designee shall preside at the oral proceeding on a proposed rule. If the commissioner does not preside, the presiding officer shall prepare a memorandum for consideration by the department summarizing the contents of the presentations made at the oral proceeding unless the commissioner determines that such a memorandum is unnecessary. If the oral proceeding relates to rule making which falls within the authority of an official other than the commissioner, the oral proceeding shall be presided over by the official with rule-making authority or that official's designee.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the agency at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the agency decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Persons making oral presentations are encouraged to summarize matters which have already been submitted in writing.

(3) The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting.

(4) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the agency.

(5) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

(6) Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other representatives of the department who may be present about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(7) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

10.205(4) *Additional information.* In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the department may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

10.205(5) *Accessibility.* The department shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, in advance to arrange access or other needed services.

[Editorial change: IAC Supplement 2/11/09]

661—10.206(17A) Regulatory analysis.

10.206(1) *Definition of small business.* A "small business" is defined in 1998 Iowa Acts, chapter 1202, section 10(7).

10.206(2) *Mailing list.* Small businesses or organizations of small businesses may be registered on the department's small business impact list by making a written application addressed to Agency Rules Coordinator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The application for registration shall state:

a. The name of the small business or organization of small businesses;

b. Its address;

c. The name of a person authorized to transact business for the applicant;

d. A description of the applicant's business or organization. An organization representing 25 or more persons who qualify as a small business shall indicate that fact.

e. Whether the registrant desires copies of Notices of Intended Action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The department may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The department may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within 30 days after the letter is sent.

10.206(3) *Time of mailing.* Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the department shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the Notice of Intended Action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business adopted in reliance upon Iowa Code section 17A.4(2), the department shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the Iowa Administrative Bulletin.

10.206(4) *Qualified requesters for regulatory analysis—economic impact.* The department shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), after a proper request from:

a. The administrative rules coordinator;

b. The administrative rules review committee.

10.206(5) *Qualified requesters for regulatory analysis— business impact.* The department shall issue a regulatory analysis of a proposed rule that conforms to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b), after a proper request from:

a. The administrative rules review committee;

b. The administrative rules coordinator;

c. At least 25 or more persons who sign the request provided that each represents a different small business;

d. An organization representing at least 25 small businesses. That organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

10.206(6) *Time period for analysis.* Upon receipt of a timely request for a regulatory analysis, the department shall adhere to the time lines described in 1998 Iowa Acts, chapter 1202, section 10(4).

10.206(7) *Contents of request.* A request for a regulatory analysis is made when it is mailed or delivered to the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The request shall be in writing and satisfy the requirements of 1998 Iowa Acts, chapter 1202, section 10(1).

10.206(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(4,5).

10.206(9) *Publication of a concise summary.* The department shall make available, to the maximum extent feasible, copies of the published summary in conformance with 1998 Iowa Acts, chapter 1202, section 10(5).

10.206(10) *Regulatory analysis contents—rules review committee or rules coordinator.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee or the administrative rules coordinator, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2a), unless a written request expressly waives one or more of the items listed in the section.

10.206(11) *Regulatory analysis contents—substantial impact on small business.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small business or by an organization representing at least 25 small businesses, the regulatory analysis shall conform to the requirements of 1998 Iowa Acts, chapter 1202, section 10(2b).

[Editorial change: IAC Supplement 2/11/09]

661—10.207(17A,25B) Fiscal impact statement.

10.207(1) A proposed rule that mandates additional combined expenditures exceeding $100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

10.207(2) If the department determines at the time it adopts a rule that the fiscal impact statement upon which the rule is based contains errors, the department shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

661—10.208(17A) Time and manner of rule adoption.

10.208(1) *Time of adoption.* The department shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action, or the end of oral proceedings thereon, the department shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

10.208(2) *Consideration of public comment.* Before the adoption of a rule, the department shall consider fully all of the written submissions and oral submissions received in that rule-making proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in that rule-making proceeding.

10.208(3) *Reliance on department expertise.* Except as otherwise provided by law, the department may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

661—10.209(17A) Variance between adopted rule and published notice of proposed rule adoption.

10.209(1) The department shall not adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and

b. The differences are a logical outgrowth of the contents of that Notice of Intended Action and the comments submitted in response thereto; and

c. The Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question.

10.209(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the department shall consider the following factors:

a. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;

b. The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action; and

c. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

10.209(3) The department shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless the department finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rule-making proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to petitioner, the administrative rules coordinator, and the administrative rules review committee, within three days of its issuance.

10.209(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the department to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

661—10.210(17A) Exemptions from public rule-making procedures.

10.210(1) *Omission of notice and comment.* To the extent the department for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the department may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The department shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

10.210(2) Reserved.

10.210(3) *Public proceedings on rules adopted without them.* The department may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 10.210(1). Upon written petition by a governmental subdivision, the administrative rules review committee, the department, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the department shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 10.210(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must

be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subrule, the department may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 10.210(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

661—10.211(17A) Concise statement of reasons.

10.211(1) *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the department shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

10.211(2) *Contents.* The concise statement of reasons shall contain:

a. The reasons for adopting the rule;

b. An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any such change;

c. The principal reasons urged in the rule-making proceeding for and against the rule, and the department's reasons for overruling the arguments made against the rule.

10.211(3) *Time of issuance.* After a proper request, the department shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.

[Editorial change: IAC Supplement 2/11/09]

661—10.212(17A) Contents, style, and form of rule.

10.212(1) *Contents.* Each rule adopted by the department shall contain the text of the rule and, in addition:

a. The date the department adopted the rule;

b. A brief explanation of the principal reasons for the rule-making action if such reasons are required by 1998 Iowa Acts, chapter 1202, section 8, or the department in its discretion decides to include such reasons;

c. A reference to all rules repealed, amended, or suspended by the rule;

d. A reference to the specific statutory or other authority authorizing adoption of the rule;

e. Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule;

f. The effective date of the rule.

10.212(2) *Incorporation by reference.* The department may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the department finds that the incorporation of its text in the department proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the department proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The department may incorporate such matter by reference in a proposed or adopted rule only if the department makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from the department, and how and where copies may be obtained from the agency, organization, association, or persons originally issuing that matter. The department shall retain permanently a copy of any materials incorporated by reference in a rule of the department.

If the department adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically.

10.212(3) *References to materials not published in full.* When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be

unduly cumbersome, expensive, or otherwise inexpedient, the department shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the department. The department will provide a copy of that full text, at actual cost, upon request and shall make copies of the full text available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the department shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

10.212(4) *Style and form.* In preparing its rules, the department shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

661—10.213(17A) Agency rule-making record.

10.213(1) *Requirement.* The department shall maintain an official rule-making record for each rule it proposes by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

10.213(2) *Contents.* The department rule-making record shall contain:

a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of department submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based;

b. Copies of any portions of the department's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;

c. All written petitions, requests, and submissions received by the department, and all other written materials of a factual nature as distinguished from opinion that are relevant to the merits of the rule and that were created or compiled by the department and considered by the commissioner of public safety or other official with rule-making authority, in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, except to the extent the department is authorized by law to keep them confidential; provided, however, that when any such materials are deleted because they are authorized by law to be kept confidential, the department shall identify in the record the particular materials deleted and state the reasons for that deletion;

d. Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;

e. A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based;

f. A copy of the rule and any concise statement of reasons prepared for that rule;

g. All petitions for amendment or repeal or suspension of the rule;

h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;

i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any department response to that objection;

j. A copy of any significant written criticism of the rule, including a summary of any petitions for waiver of the rule; and

k. A copy of any executive order concerning the rule.

10.213(3) *Effect of record.* Except as otherwise required by a provision of law, the department rule-making record required by this rule need not constitute the exclusive basis for department action on that rule.

10.213(4) *Maintenance of record.* The department shall maintain the rule-making record for a period of not less than five years from the later of the date the rule to which it pertains became effective, the date of the Notice of Intended Action, or the date of any written criticism as described in 10.213(2)*"g," "h," "i,"* or *"j."*

661—10.214(17A) Filing of rules. The department shall file each rule it adopts in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule must have attached to it any fiscal impact statement and any concise statement of reasons that was issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the department shall use the standard form prescribed by the administrative rules coordinator.

661—10.215(17A) Effectiveness of rules prior to publication.

10.215(1) *Grounds.* The department may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The department shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

10.215(2) *Special notice.* When the department makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)*"b"*(3), the department shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule's indexing and publication. The term "all reasonable efforts" requires the department to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the department of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)*"b"*(3) shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of subrule 10.215(2).

661—10.216(17A) General statements of policy.

10.216(1) *Compilation, indexing, public inspection.* The department shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(10)*"a," "c," "f," "g," "h," "k."* Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(7)*"f,"* or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

10.216(2) *Enforcement of requirements.* A general statement of policy subject to the requirements of this subsection shall not be relied on by the department to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 10.216(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

661—10.217(17A) Review by department of rules.

10.217(1) Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the department to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the department shall conduct a formal review of a specified rule to determine whether a new rule should be adopted instead or

the rule should be amended or repealed. The department may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

10.217(2) In conducting the formal review, the department shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the department's findings regarding the rule's effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the department or granted by the department. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the department's report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

661—10.218(17A) Petition for rule making. Any person or agency may file a petition for rule making with the department at the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PUBLIC SAFETY

Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 10.221(1).

10.218(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

10.218(2) The department may deny a petition because it does not substantially conform to the required form.

[Editorial change: IAC Supplement 2/11/09]

661—10.219(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The department may request a brief from the petitioner or from any other person concerning the substance of the petition.

661—10.220(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Agency Rules Administrator, Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

[Editorial change: IAC Supplement 2/11/09]

661—10.221(17A) Agency consideration.

10.221(1) Within 14 days after the filing of a petition, the department must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the department may schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The department may request the petitioner to submit additional information or argument concerning the petition. The department may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department by any person.

10.221(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the department must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to petitioner.

10.221(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

661—10.222(17A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department of public safety in situations where no other more specific procedure provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule. Generally, more specific procedures exist for considering waivers from rules of the state fire marshal and from provisions of the state of Iowa building code.

10.222(1) Applicability of rule. The department may grant a waiver from a rule only if the department has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The department may not waive requirements created or duties imposed by statute.

10.222(2) Criteria for waiver. In response to a petition completed pursuant to this rule, the department may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

10.222(3) Filing of petition. A petition for a waiver must be submitted in writing to the department as follows:

a. *License application.* If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

b. *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

c. *Other.* If the petition does not relate to a license application or a pending contested case, the petition may be submitted with a caption containing the name of the entity or person for whom the waiver is requested.

d. *File petition.* A petition is deemed filed when it is received in the department's office. A petition should be sent to the Iowa Department of Public Safety, Attention: Agency Rules Administrator, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

10.222(4) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the entity or person for whom a waiver is being requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner's legal representative, if any.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 10.222(2). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the department, other departments or agencies of the state of Iowa, or political subdivisions and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license or certificate held by the requester, any formal charges filed, notices of violation, contested case hearings, or investigations relating to the regulated activity or license within the last five years.

f. Any information known to the requester regarding the department's action in similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

h. The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

10.222(5) Additional information. Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a representative or representatives of the department related to the waiver request.

10.222(6) Notice. The department shall acknowledge a petition upon receipt. The department shall ensure that, within 30 days of the receipt of the petition, notice of the pending petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, including the petitioner. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the department attesting that notice has been provided.

10.222(7) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to department proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

10.222(8) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person or legal entity and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. *Departmental discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the department, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the department based on the unique, individual circumstances set out in the petition.

b. Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the department should exercise its discretion to grant a waiver from a rule.

c. Narrowly tailored. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. Conditions. The department may place on a waiver any condition that the department finds desirable to protect the public health, safety, and welfare.

f. Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the department, a waiver may be renewed if the department finds that grounds for a waiver continue to exist.

g. Time for ruling. The department shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. When deemed denied. Failure of the department to grant or deny a petition within the required time period shall be deemed a denial of that petition by the department. However, the department shall remain responsible for issuing an order denying a waiver.

i. Service of order. Within seven days of its issuance, any order issued under this rule shall be transmitted or delivered to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

10.222(9) All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the department is authorized or required to keep confidential. The department may accordingly redact confidential information from petitions or orders prior to public inspection.

10.222(10) Submission of waiver information. When the department grants a waiver, the department shall submit information required by Iowa Code section 17A.9A and in the manner prescribed by Iowa Code section 17A.9 within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department's actions on waiver requests. If practicable, the department shall include information detailing the extent to which the granting of a waiver has affected the general applicability of the rule itself.

10.222(11) Cancellation of a waiver. A waiver issued by the department pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the department issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

10.222(12) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

10.222(13) Defense. After the department issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

10.222(14) Judicial review. Judicial review of the department's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

10.222(15) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE IOWA DEPARTMENT OF PUBLIC SAFETY

Petition by (name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver). Also provide the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.

4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in the answer all of the following:

- Why applying the rule would result in undue hardship to the petitioner;
- Why waiving the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the department, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the regulated activity or license that would be affected by the waiver. Include a description of each affected license held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.

6. Provide information known to the petitioner regarding the department's action in similar cases.

7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

_____ _____

Petitioner's signature Date

This rule is intended to implement Iowa Code section 17A.22.

[Editorial change: IAC Supplement 2/11/09; **ARC 5975C**, IAB 10/20/21, effective 11/24/21]

661—10.223 to **10.300** Reserved.

CONTESTED CASES

661—10.301(17A) Scope and applicability. Rules 661—10.301(17A) to 661—10.332(17A) apply to contested case proceedings conducted by the department.

661—10.302(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 1998 Iowa Acts, chapter 1202, section 14.

"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 commissioner of public safety or other person designated by the commissioner to preside over a contested case proceeding.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the commissioner of public safety did not preside.

661—10.303(17A) Time requirements.

10.303(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

10.303(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by other provision of law. 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.

661—10.304(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.

Requests for contested case proceedings shall be filed with the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.
[Editorial change: IAC Supplement 2/11/09]

661—10.305(17A) Notice of hearing.

10.305(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.

10.305(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 department 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 department 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; and

i. Notification of the time period in which a party may request, pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rule 661—10.306(17A), that the presiding officer be an administrative law judge.

661—10.306(17A) Presiding officer.

10.306(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.

10.306(2) The commissioner of public safety or the commissioner's designee may deny the request only upon a finding that one or more of the following apply:

a. Neither the department 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. An administrative law judge is unavailable to hear the case within a reasonable time.

d. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

f. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

g. The request was not timely filed.

h. The request is not consistent with a specified statute.

10.306(3) The commissioner or the commissioner's designee shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 10.306(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

10.306(4) Reserved.

10.306(5) 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.

10.306(6) Unless otherwise provided by law, the commissioner, 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.

661—10.307(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 department in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

661—10.308(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.

661—10.309(17A) Disqualification.

10.309(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.

10.309(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 as amended by 1998 Iowa Acts, chapter 1202, section 19, and subrules 10.309(3) and 10.323(9).

10.309(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.

10.309(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 10.309(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(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 661—10.325(17A) and seek a stay under rule 661—10.329(17A).

661—10.310(17A) Consolidation—severance.

10.310(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.

10.310(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

661—10.311(17A) Pleadings. Formal pleadings are not required in cases initiated by a notice of appeal or a notice of claim. However, the presiding officer may order the parties to file formal pleadings in any case.

661—10.312(17A) Service and filing of pleadings and other papers.

10.312(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 department, 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.

10.312(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.

10.312(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 Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the department.

10.312(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, 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.

10.312(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 Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, 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)

[Editorial change: IAC Supplement 2/11/09]

661—10.313(17A) Discovery.

10.313(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.

10.313(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 10.313(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

10.313(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

661—10.314(17A) Subpoenas.

10.314(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.

10.314(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.

661—10.315(17A) Motions.

10.315(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.

10.315(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 department or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

10.315(3) The presiding officer may schedule oral argument on any motion.

10.315(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by administrative rule or an order of the presiding officer.

661—10.316(17A) Prehearing conference.

10.316(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.

10.316(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.

10.316(3) In addition to the requirements of subrule 10.316(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.

10.316(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.

661—10.317(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

10.317(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 department may waive notice of such requests for a particular case or an entire class of cases.

10.317(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.

661—10.318(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal shall be with prejudice.

661—10.319(17A) Intervention.

10.319(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.

10.319(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.

10.319(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.

10.319(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.

661—10.320(17A) Hearing procedures.

10.320(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.

10.320(2) All objections shall be timely made and stated on the record.

10.320(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.

10.320(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.

10.320(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

10.320(6) Witnesses may be sequestered during the hearing.

10.320(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.

661—10.321(17A) Evidence.

10.321(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.

10.321(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

10.321(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.

10.321(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.

10.321(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.

10.321(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.

661—10.322(17A) Default.

10.322(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.

10.322(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.

10.322(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, or other period of time specified by statute or rule, 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 661—10.327(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.

10.322(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.

10.322(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, or other time specified by the presiding officer, 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.

10.322(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.

10.322(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 661—10.325(17A).

10.322(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.

10.322(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.

10.322(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 661—10.329(17A).

661—10.323(17A) Ex parte communication.

10.323(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 10.309(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.

10.323(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.

10.323(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

10.323(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 661—10.312(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.

10.323(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.

10.323(6) The commissioner of public safety 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 10.323(1).

10.323(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 661—10.317(17A).

10.323(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, as determined by the presiding officer. 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.

10.323(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.

10.323(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 department personnel shall be reported to the Professional Standards Bureau, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

[Editorial change: IAC Supplement 2/11/09]

661—10.324(17A) Recording costs. Upon request, the 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.

661—10.325(17A) Interlocutory appeals. Upon written request of a party or on the commissioner's own motion, the commissioner of public safety may review an interlocutory order of the presiding officer. In determining whether to do so, the commissioner shall weigh the extent to which its 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.

661—10.326(17A) Final decision.

10.326(1) When commissioner of public safety presides over the reception of evidence at the hearing, the commissioner's decision is a final decision.

10.326(2) When the commissioner 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 department within the time provided in rule 661—10.327(17A).

661—10.327(17A) Appeals and review.

10.327(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the commissioner of public safety within 30 days after issuance of the proposed decision.

10.327(2) *Review.* The commissioner may initiate review of a proposed decision on the commissioner's own motion at any time within 30 days following the issuance of such a decision.

10.327(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. 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.

10.327(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 commissioner may remand a case to the presiding officer for further hearing or may preside at the taking of additional evidence.

10.327(5) *Scheduling.* The department shall issue a schedule for consideration of the appeal.

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

[Editorial change: IAC Supplement 2/11/09]

661—10.328(17A) Applications for rehearing.

10.328(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

10.328(2) *Content of application.*

a. 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 10.327(4), the applicant requests an opportunity to submit additional evidence.

b. Substantially state in separate numbered paragraphs the following:

(1) Clear and concise statements of the reasons for requesting a rehearing and each and every error which the party alleges to have been committed during the contested case proceedings;

(2) Clear and concise statements of all relevant facts upon which the party relies;

(3) Refer to any particular statute or statutes and any rule or rules involved;

(4) The signature of the party or that of the representative.

10.328(3) *Time of filing.* The application shall be filed with the Office of the Commissioner, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, within 20 days after issuance of the final decision.

10.328(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 department shall serve copies on all parties.

10.328(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

[Editorial change: IAC Supplement 2/11/09]

661—10.329(17A) Stays of agency actions.

10.329(1) *When available.*

a. Any party to a contested case proceeding may petition the department 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 commissioner may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the department 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.

10.329(2) *When granted.* In determining whether to grant a stay, the presiding officer or commissioner shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c).

10.329(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

661—10.330(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.

661—10.331(17A) Emergency adjudicative proceedings.

10.331(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 department may issue a written order in compliance with 1998 Iowa Acts, chapter 1202, section 21, 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 department 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 department is necessary to avoid the immediate danger.

10.331(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 department's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by 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 department;

(3) Certified mail to the last address on file with the department;

(4) First-class mail to the last address on file with the department; 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 department orders be sent by fax and has provided a fax number for that purpose.

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

10.331(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the department shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

10.331(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the department 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.

661—10.332(17A) Burden of proof. Unless otherwise provided by law, the burden of proof in all contested case proceedings in which the department is a party shall be on the petitioner.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed June 30, 1975]
[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]
[Filed 10/5/01, Notice 5/30/01—published 10/31/01, effective 1/1/02]
[Editorial change: IAC Supplement 2/11/09]
[Filed ARC 5975C (Notice ARC 5654C, IAB 6/2/21), IAB 10/20/21, effective 11/24/21]

CHAPTER 11
IDENTIFICATION SECTION OF THE DIVISION OF CRIMINAL INVESTIGATION

[Rules 11.1 to 11.7 appeared as 4.3 prior to 6/27/79]
[Prior to 4/20/88, see Public Safety Department[680] Ch 11]

Rescinded IAB 7/14/10, effective 9/1/10

CHAPTER 12
CRIMINALISTICS LABORATORY

[Rules 12.1 to 12.11 appeared as 4.5 prior to 6/27/79]
[Prior to 4/20/88, see Public Safety Department[680] Ch 12]

Rescinded IAB 11/22/06, effective 1/1/07. See 661—Chapter 150.

CHAPTER 13
SPECIAL RAILWAY AGENTS

[Rules 13.1 to 13.16 appeared as 4.6 prior to 6/27/79]
[Prior to 4/20/88, see Public Safety Department[680] Ch 13]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—13.1(17A,80) Appointment of railway special agents. The administrative services division processes applications for appointment as railway special agents from persons who are regularly employed by a railroad so those persons may protect railroad property.

661—13.2(17A,80) Standards. All applicants shall meet minimum standards to qualify as law enforcement officers as established in the Iowa law enforcement academy rules.

661—13.3(17A,80) Training requirements. All applicants shall meet all training requirements of the Iowa law enforcement academy.

661—13.4(17A,80) Letter of request. The chief special agent of the railroad company shall submit a letter of request for the appointment of a railroad employee as railway special agent. This letter and all other correspondence is to be sent to this division, Attention: Railway special agent license. The letter shall state the applicant's full name (first, middle and last) and address and should state to whom the application should be mailed.

661—13.5(17A,80) Application form. Each railway special agent applicant shall complete an application form that is not reproduced in these rules but is available and may be obtained from this division. This form should be typewritten or clearly printed in ink and all questions must be answered, if applicable.

661—13.6(17A,80) Photographs. Each application shall have the required 3″ × 3″ photograph, as required, and two additional photographs measuring 1½″ by 1½″ suitable for the identification card.

661—13.7(17A,80) Vision classification. Each applicant's vision classification for each eye with and without glasses shall be indicated.

661—13.8(17A,80) Surety bond. It is required that the requesting railroad company submit a surety bond in the amount of $5,000 for the person to be appointed. Such surety bond in the amount stated shall be issued by a bonding or surety company licensed through the Iowa insurance commission to do business in the state of Iowa. The surety bond shall name the railway special agent and the bond shall state that the bonded person is a duly appointed railway special agent. Surety bonds shall be issued for each person and shall remain in effect until 30 days after the company providing the bond gives notice to the department that the bond will be terminated.

661—13.9(17A,80) Background investigation. All railroad employers who are seeking to have an applicant appointed as a railway special agent shall conduct a complete background investigation of each applicant. The results of this background investigation shall be submitted with the application in typewritten report form. This background investigation shall contain, but not be limited to, the following.

13.9(1) Written comments from former employers in reference to honesty, integrity, character, personality and working performance of the applicant.

13.9(2) Written comments by personnel with any state, municipal or county law enforcement agency about the applicant and the applicant's prior employment and residences.

13.9(3) A check with all creditors for payment record and obligations.

13.9(4) A check with the clerk of court in the applicant's county of residence for any court action, civil or criminal.

13.9(5) A check with the county recorder's office where applicant resides to determine any property listed in the applicant's name and liens which may be on file.

13.9(6) A check with the credit bureau where the applicant resides or has been employed for the applicant's credit rating.

13.9(7) Certified copies of any educational records that are available (high school and college transcripts) and DD201 military form, if any.

661—13.10(17A,80) Weapons permit. If the applicant needs a weapons permit, the application shall show that the requirements outlined in Chapter 4, "Weapons," have been fulfilled.

661—13.11(17A,80) Renewal of permit. Each railroad employer of a railway special agent will file with this division Form WP1 or WP2 to renew the weapons permit.

661—13.12(17A,80) Weapons training. It is required that each railway special agent receive continuous weapon training and demonstrate necessary proficiency in the use of weapons.

661—13.13(17A,80) Review of application. Upon receipt of all material necessary for the appointment of a railway special agent, the division will process the application. All material will be reviewed and maintained in administrative services division headquarters' files. The division will conduct further investigation of the applicant which may include a check of drivers' license and motor vehicle files, criminal history data records and verification of the fact that income tax returns have been filed with the Iowa department of revenue.

661—13.14(17A,80) Identification card. After the application is approved, the railroad company will be issued an identification card for the applicant. This card should have affixed one fingerprint and the signature of the applicant. It shall then be returned to the administrative services division for authentication signatures.

661—13.15(17A,80) Notification. The railroad company shall notify the administrative services division, within five working days, when any of the following take place:

13.15(1) The railway special agent appointed by the department is terminated from employment.

13.15(2) The railway special agent has been hospitalized for a long-term illness or is undergoing psychiatric evaluation or treatment.

13.15(3) The discharge of any firearm by any railway special agent other than during target practice or hunting. This report shall include the circumstances, the number of shots fired, the type of weapon, the reason for firing and all information concerning any injury to a person or property.

661—13.16(17A,80) Notice of termination of employment. A notice of termination of employment shall include the railway special agent's identification card and weapon permit.

These rules are intended to implement Iowa Code section 80.7.

[Filed 6/30/75]

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

CHAPTER 14
PAYMENT OF SMALL CLAIMS

[Prior to 4/20/88, see Public Safety Department[680] Ch 14]

Rescinded IAB 5/23/07, effective 7/1/07; see 661—Chapter 41

CHAPTER 15
LAW ENFORCEMENT ADMINISTRATOR'S TELECOMMUNICATIONS ADVISORY COMMITTEE (LEATAC)

[Rules 15.1 to 15.6 appeared as 9.100 to 9.105 prior to 6/27/79]
[Prior to 4/20/88, see Public Safety Department[680] Ch 15]

Rescinded **ARC 9962C**, IAB 1/7/26, effective 2/11/26

CHAPTER 16
STATE BUILDING CODE—FACTORY-BUILT STRUCTURES

[Transferred from O.P.P., ch 5, See IAB 7/6/83]
[Prior to 4/20/88, see Public Safety Department[680] Ch 16]

Transferred to 481—Chapter 321, IAC Supplement 11/26/25

CHAPTER 17
CRIME VICTIM REPARATION

[Prior to 4/20/88, see Public Safety Department[680] Ch 17]
Program transferred to the Department of Justice—Attorney General[61] Ch 9, IAB 9/20/89. See 1989 Iowa Acts, House File 700.

CHAPTER 18
PARKING FOR PERSONS WITH DISABILITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—18.1(321L) Scope. These rules shall apply to all public and private parking facilities, temporary or permanent, used by the general public.

661—18.2(321L) Location. Parking spaces designated for persons with disabilities and accessible passenger loading zones that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance of the building. In separate parking structures or lots that do not serve a particular building, parking spaces for persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility. When parking spaces for persons with disabilities are required for buildings with more than one accessible entrance, the spaces shall be distributed so that each accessible entrance shall have at least one parking space for persons with disabilities located on the shortest accessible route to that entrance.

Exception:

If the required number of spaces is less than the number of accessible entrances, the spaces shall be distributed so that as many entrances as possible are served by at least one parking space for persons with disabilities located on the shortest accessible route to those entrances.

661—18.3(321L) Dimensions.

18.3(1) Single space. Parking spaces for persons with disabilities shall be at least 96 inches wide and shall have an adjacent access aisle 60 inches wide minimum (see Figure 1). Parking vehicle overhangs shall not reduce the clear width of an accessible circulation route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

18.3(2) Multiple spaces. Two accessible parking spaces may share a common access aisle (see Figure 1).

18.3(3) The requirements of subrules 18.3(1) and 18.3(2) do not apply to parallel on-street parking spaces.

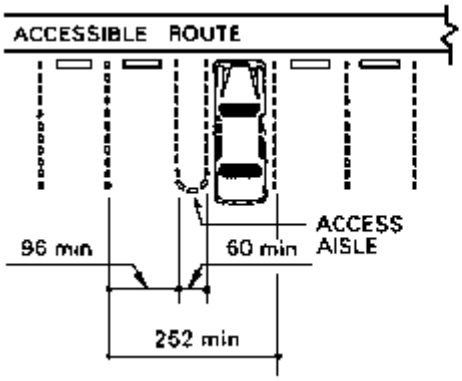

Figure 1
Dimensions of Parking Spaces

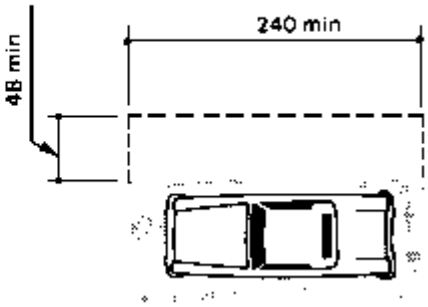

Figure 2
Access Aisle at Passenger Loading Zones

18.3(4) Van-accessible spaces. The first parking space for persons with disabilities provided in a parking lot or parking structure, and every eighth parking space for persons with disabilities provided thereafter, shall be a van-accessible space. A "van-accessible" space shall be 96 inches wide with an adjacent access aisle at least 96 inches wide (see Figure 3). Two adjacent van-accessible spaces may share a common access aisle.

Exception:

Entities providing parking spaces for persons with disabilities are not required to provide van-accessible spaces if all of the parking spaces for persons with disabilities provided in a parking lot or

structure are "universally accessible." A "universally accessible" space is at least 132 inches wide with an adjacent 60-inch wide access aisle. Two adjacent universally accessible spaces may share a common access aisle (see Figure 4).

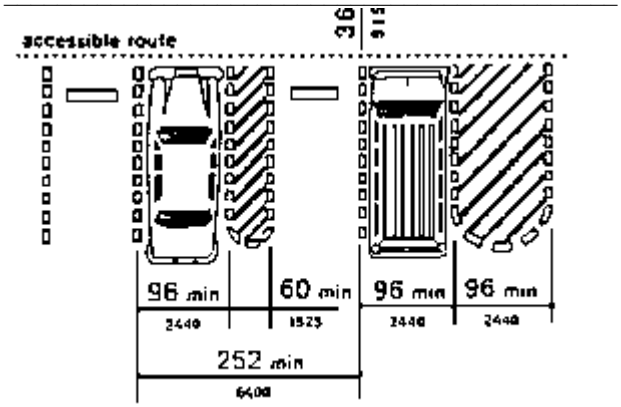

Figure 3
Van-Accessible Space at End of Row

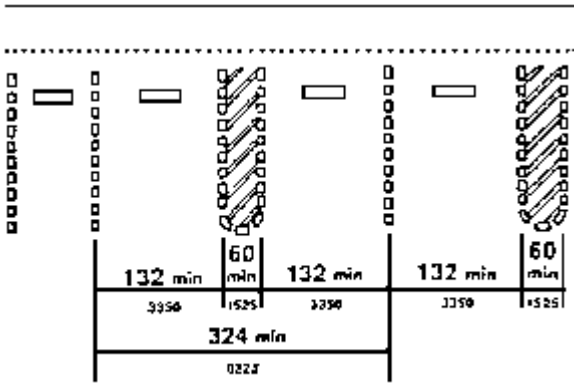

Figure 4
"Universal" Accessible Parking Spaces

661—18.4(321L) Access aisles and loading zones.

18.4(1) Passenger loading zones shall provide an access aisle at least 48 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space (see Figure 2). Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions.

NOTE: Projects which are required to comply with the Uniform Federal Accessibility Standards shall provide a width of 60 inches for the access aisle.

18.4(2) A minimum vertical clearance of 108 inches shall be provided at accessible passenger loading zones and along vehicle access routes to such areas from site entrances.

NOTE: Uniform Federal Accessibility Standard requires 114 inches of vertical clearance.

18.4(3) If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Iowa Code section 216C.9 shall be provided.

661—18.5(321L) Designation. Each parking space for persons with disabilities shall be designated as reserved for persons with disabilities by a sign meeting the following requirements established in Iowa Code section 321L.6:

18.5(1) Each persons with disabilities parking sign shall have the international symbol of accessibility in white on a blue background.

18.5(2) Each persons with disabilities parking sign shall be affixed vertically to another object so that it is readily visible to the driver of a vehicle approaching the parking space for persons with disabilities. Signs shall be mounted so that the bottom of the sign is no less than five feet nor more than seven feet from the surface level of the parking space.

Exception 1:

Signs in use prior to February 1, 2001, which are readily visible to the driver of a vehicle approaching the parking space may continue to be used until replaced.

Exception 2:

Signs marking parking spaces for persons with disabilities which are affixed to other approved parking signs and devices are not required to meet the minimum or maximum height requirements of this rule, provided that the signs are clearly visible to the drivers of vehicles approaching the spaces which they mark.

NOTE: The pavement in a persons with disabilities parking space may be marked with the international symbol of accessibility, but such marking does not meet the requirements of this subrule.

18.5(3) Each persons with disabilities parking sign may include language stating the amount of the fine for improperly using the persons with disabilities parking space. If a persons with disabilities parking sign includes language stating the amount of the fine, it shall reflect the current specified amount of the fine.

661—18.6(321L) Numbers of parking spaces for persons with disabilities required in off-street parking facilities.

18.6(1) At least 2 percent of the total parking spaces in any off-street nonresidential parking facility available to the public shall be designated as spaces for persons with disabilities, rounded to the nearest whole number of parking spaces for persons with disabilities. There shall be at least one parking space for persons with disabilities in any off-street nonresidential parking facility available to the public which has a total of ten or more parking spaces.

18.6(2) All off-street parking facilities on which construction is completed on or after July 1, 1991, which provide parking to the general public and which provide ten or more parking spaces, shall designate parking spaces for persons with disabilities in accordance with the following table:

Total Parking Spaces In Lot	Required Minimum Number of Parking Spaces for Persons with Disabilities
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	*
1,001 and over	**

*2 percent of total

**20 spaces plus 1 for each 100 over 1,000

NOTE: Projects which are required to comply with the Uniform Federal Accessibility Standards shall provide a minimum of one parking space for persons with disabilities.

661—18.7(321L) Persons with disabilities parking at residential facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten or more tenant parking spaces, excluding extended health care facilities, shall designate at least one parking space

for persons with disabilities as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten or more spaces shall designate parking spaces for persons with disabilities in the visitors' parking area in accordance with the table contained in rule 661—18.6(321L).

661—18.8(321L) On-street parking. Provisions for parking spaces for persons with disabilities in on-street parking areas within city business districts shall be as required by Iowa Code section 321L.5.

These rules are intended to implement Iowa Code chapter 321L.

[Filed 6/22/90, Notice 1/10/90—published 7/11/90, effective 8/15/90]
[Filed emergency 7/20/90—published 8/8/90, effective 8/15/90]
[Filed 12/28/95, Notice 8/2/95—published 1/17/96, effective 3/1/96]
[Filed 11/22/00, Notice 5/17/00—published 12/13/00, effective 2/1/01]

CHAPTER 19
MISSING PERSON INFORMATION CLEARINGHOUSE

[Prior to 4/20/88, see Public Safety Department[680] Ch 19]

Rescinded IAB 11/22/06, effective 1/1/07

CHAPTER 20
GOVERNOR'S TRAFFIC SAFETY BUREAU

[Prior to 4/20/88, see Planning and Programming[630] Ch 12]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—20.1(23USC402,ExecOrd23) Authority. Title 23 U.S.C. Section 402 requires each state to have a highway safety program sponsored by the U.S. Secretary of Transportation and for which the governor of the state shall be responsible.

20.1(1) The governor has designated the commissioner of the department of public safety as governor's highway safety representative for Iowa and established the department of public safety as the state highway safety agency in Governor's Executive Order Number Twenty-Three, signed June 9, 1986, and published in the Iowa Administrative Bulletin on July 2, 1986.

20.1(2) The governor's traffic safety bureau shall administer the state highway safety program in accordance with the provisions of Title 23 U.S.C. and Governor's Executive Order Number Twenty-Three.

[**ARC 5253C**, IAB 11/4/20, effective 12/9/20]

661—20.2(23USC402,ExecOrd23) Purpose. The purpose of the highway safety program is to provide a coordinated federal, state and local effort to reduce traffic-related deaths, injuries, and property damage crashes.

The following eight highway safety priority areas have been established by the federal government to provide a guide to program involvement and reimbursement: alcohol; police traffic services; emergency medical services; traffic records; occupant restraints; engineering; motorcycles; and pedestrians/bicycles.

Note: The federal government may add additional priority areas as traffic trends change.

[**ARC 5253C**, IAB 11/4/20, effective 12/9/20]

661—20.3(23USC402,ExecOrd23) Responsibilities.

20.3(1) The governor's traffic safety bureau shall develop and prepare the state's highway safety plan based on evaluation of highway crashes and traffic safety problems within the state.

20.3(2) The governor's traffic safety bureau shall encourage and assist local units of government in improving their traffic safety programs.

20.3(3) The governor's traffic safety bureau shall serve as a reviewing authority for federal and state traffic safety programs.

20.3(4) The governor's traffic safety bureau shall monitor safety program activity and expenditures of funds by state and local agencies as authorized by Title 23 U.S.C. 402.

20.3(5) The governor's traffic safety bureau shall coordinate the state highway safety plan with other state agencies.

20.3(6) Application for funding.

a. Proposals for funding highway safety programs may be submitted during set application time periods by any city, county, or state agency, or nonprofit organization or any other eligible organization or individual.

b. Applications for funding in the next federal fiscal year, beginning October 1, must be received on or before March 1 to be considered. Applications for contracts beginning November 1 must be received on or before May 1. The bureau chief of the governor's traffic safety bureau may amend the deadline dates in order to implement projects and special activities as deemed appropriate.

c. Initial proposals should include project title, statement of the highway safety problem to be addressed supported by crash data, what is being proposed to solve the problem, how it will be evaluated, a proposed budget, and a letter of intent accepting responsibility for the proposed project from the responsible authority of the organization making application.

d. Only requests containing the listed elements will be considered for funding.

e. Assistance in developing and submitting proposals for highway safety funding may be obtained by contacting the governor's traffic safety bureau, Iowa department of public safety, by email at gtsbinfo@safe.ia.gov.

[Editorial change: IAC Supplement 6/17/09; **ARC 5253C**, IAB 11/4/20, effective 12/9/20]

661—20.4(23USC402,ExecOrd23) Funding criteria.

20.4(1) Allocation of federally appropriated funds administered by the governor's traffic safety bureau pursuant to Title 23 U.S.C., Section 402, shall be based on: (1) federally mandated projects; and (2) high fatality and personal injury crash causations and locations.

Note: The governor's traffic safety bureau shall refer to current federal authorization to dictate how funds are distributed.

20.4(2) At least 40 percent of all federal funds apportioned to the state of Iowa pursuant to Title 23 U.S.C., Section 402, for any fiscal year shall be expended by political subdivisions of the state to carry out local highway safety programs authorized by the governor's representative for highway safety.

[**ARC 5253C**, IAB 11/4/20, effective 12/9/20]

661—20.5(23USC402,ExecOrd23) Program requirements.

20.5(1) All approved programs funded by the governor's traffic safety bureau must be administered in compliance with the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual.

20.5(2) Highway safety contract procedures and reporting forms and their explanations are contained in the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual.

20.5(3) Single copies of the current version of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual may be obtained on request from the Governor's Traffic Safety Bureau, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

[Editorial change: IAC Supplement 6/17/09; **ARC 5253C**, IAB 11/4/20, effective 12/9/20]

These rules are intended to implement Title 23 U.S.C., Section 402, and

Governor's Executive Order Number Twenty-Three, signed June 9, 1986

.

[Filed 7/15/75]

[Filed 5/27/77, Notice 9/8/76—published 6/15/77, effective 7/20/77]

[Filed 7/29/80, Notice 3/19/80—published 8/20/80, effective 9/24/80]

[Filed 2/13/81, Notice 10/29/80—published 3/4/81, effective 4/8/81]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

[Filed emergency 2/11/94—published 3/2/94, effective 3/1/94]

[Filed 4/29/94, Notice 10/13/93—published 5/25/94, effective 7/1/94]

[Filed emergency 1/27/95—published 2/15/95, effective 2/1/95]

[Editorial change: IAC Supplement 6/17/09]

[Filed ARC 5253C (Notice ARC 5084C, IAB 7/15/20), IAB 11/4/20, effective 12/9/20]

CHAPTER 21
STATE MEDICAL EXAMINER

[Prior to 4/20/88, see Medical Examiner, State[566] Ch 1]

Rescinded IAB 7/28/99, effective 7/1/99; see 641—Ch 126.

[Editorial change: IAC Supplement 7/26/23]

CHAPTER 22
REGULATIONS APPLICABLE TO CARRIERS

[Prior to 6/3/87, Transportation Department[820]—(07,F) Ch 8]
[Prior to 7/26/23, see Transportation Department[761] Ch 520]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

661—22.1(321) Safety and hazardous materials regulations.

22.1(1) *Regulations.*

a. *Motor carrier safety regulations.* The department of public safety adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385, 386 and 390-399 (October 1, 2023).

b. *Hazardous materials regulations.* The department of public safety adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2023).

c. *Copies of regulations.* Copies of the federal regulations may be reviewed at the state law library or through the Internet at www.fmcsa.dot.gov.

22.1(2) *Carriers subject to regulations.*

a. Operators of commercial vehicles, as defined in Iowa Code section 321.1, are subject to the Federal Motor Carrier Safety Regulations adopted in this rule unless exempted under Iowa Code section 321.449.

b. Operators of vehicles transporting hazardous materials in commerce are subject to the Federal Hazardous Materials Regulations adopted in this rule unless exempted under Iowa Code section 321.450.

c. Operators of vehicles for hire, designed to transport 7 or more persons but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire, designed to transport 7 or more persons but fewer than 16, including the driver, are not exempt from logbook requirements afforded the 150-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

22.1(3) *Declaration of knowledge of regulations.* Operators of commercial vehicles who are subject to the regulations adopted in this rule shall at the time of application for authority to operate in Iowa or upon receipt of their Iowa registration declare knowledge of the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations adopted in this rule.

This rule is intended to implement Iowa Code sections 321.1, 321.449 and 321.450.

[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.2(321) Definitions. The following definitions apply to the regulations adopted in rule 661—22.1(321):

"Any requirements which impose any restrictions upon a person" as used in Iowa Code section 321.449(6) means the requirements in 49 CFR Parts 391 and 395.

"Driver age qualifications" as used in Iowa Code section 321.449(3) means the age qualifications in 49 CFR 391.11(b)(1).

"Driver qualifications" as used in Iowa Code section 321.449(2) means the driver qualifications in 49 CFR Part 391.

"Farm customer" as used in Iowa Code section 321.450(3) means a retail consumer residing on a farm or in a rural area or city with a population of 3,000 or less.

"Hours of service" as used in Iowa Code section 321.449(2) means the hours of service requirements in 49 CFR Part 395.

"Recordkeeping requirements" as used in Iowa Code section 321.449(2) means the recordkeeping requirements in 49 CFR Part 395.

"Rules adopted under this section concerning physical and medical qualifications" as used in Iowa Code sections 321.449(5) and 321.450(2) means the regulations in 49 CFR 391.11(b)(4) and 49 CFR Part 391, Subpart E.

"Rules adopted under this section for a driver of a commercial vehicle" as used in Iowa Code section 321.449(4) means the regulations in 49 CFR Parts 391 and 395.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.
[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.3(321) Motor carrier safety regulations exemptions.

22.3(1) The following intrastate vehicle operations are exempt from the motor carrier safety regulations concerning inspection in 49 CFR 396.17 as adopted in rule 661—22.1(321):

a. Implements of husbandry including nurse tanks as defined in Iowa Code section 321.1.

b. Special mobile equipment (SME) as defined in Iowa Code section 321.1.

c. Unregistered farm trailers as defined in rule 761—400.1(321) pursuant to Iowa Code section 321.123.

d. Motor vehicles registered for a gross weight of five tons or less when used by retail dealers or their employees to deliver hazardous materials, fertilizers, petroleum products and pesticides to farm customers.

22.3(2) Reserved.

This rule is intended to implement Iowa Code sections 321.1, 321.123, 321.449 and 321.450.
[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.4(321) Hazardous materials exemptions. These exemptions apply to the regulations adopted in rule 661—22.1(321):

22.4(1) Pursuant to Iowa Code section 321.450(3), "retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a one-hundred-mile radius of their retail place of business" are exempt from 49 CFR 177.804; and, pursuant to Iowa Code section 321.449(4), they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, 396 and 397.

22.4(2) Reserved.

This rule is intended to implement Iowa Code section 321.450.
[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.5(321) Safety fitness.

22.5(1) *New motor carrier safety audits.* Peace officers in the commercial motor vehicle unit of the department of public safety will perform safety audits of new motor carriers and have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits are performed in compliance with 49 CFR Part 385 and are completed within 18 months from the day the motor carrier commences business.

22.5(2) *Motor carrier compliance reviews.* Peace officers in the commercial motor vehicle unit of the department of public safety will perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews are performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.
[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.6(321) Out-of-service order. A person will not operate a commercial vehicle or transport hazardous material in violation of an out-of-service order issued by an Iowa peace officer. An out-of-service order for noncompliance is issued when either the vehicle operator is not qualified to operate the vehicle or the vehicle is unsafe to be operated until required repairs are made. The out-of-service order is consistent with the North American Uniform Out-of-Service Criteria.

This rule is intended to implement Iowa Code sections 321.3, 321.208A, 321.449, and 321.450.
[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.7(321) Driver's statement. A "driver" as used in Iowa Code sections 321.449(5) and 321.450(2) will carry at all times a notarized statement of employment. The statement includes the following:

1. The driver's name, address and social security number;
2. The name, address and telephone number of the driver's pre-July 29, 1996, employer;

3. A statement, signed by the pre-July 29, 1996, employer or the employer's authorized representative, that the driver was employed to operate a commercial vehicle only in Iowa; and

4. A statement showing the driver's physical or medical condition existed prior to July 29, 1996.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.8(321) Planting and harvesting period. In accordance with the provisions of 49 CFR 395.1(k), the planting and harvesting period pertaining to agricultural operations is January 1 through December 31.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.9(325A) Marking of motor vehicles. "Motor vehicle" is defined in Iowa Code chapter 325A. Before any motor vehicle is placed in service, the motor vehicle will be clearly marked with letters and figures large enough to be easily read at a distance of 50 feet and in a color in contrast to the background. These markings will be painted on each side of the motor vehicle or may consist of a removable device that meets identification and legibility requirements and is securely placed on each side of the motor vehicle.

22.9(1) Motor carriers operating intrastate only will display the:

a. Name of motor carrier under whose authority the motor vehicle is being operated.

b. U.S. DOT number followed by the letters "IA" if the motor carrier has been issued a number by the Federal Motor Carrier Safety Administration.

22.9(2) Motor carriers operating both interstate and intrastate will display markings in accordance with 49 CFR 390.21.

This rule is intended to implement Iowa Code section 325A.8.

[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

661—22.10(325A) Bills of lading or freight receipts.

22.10(1) *Requirements.* Every motor carrier operating under a motor carrier permit, except for those motor carriers transporting unprocessed agricultural and horticultural products and livestock, will issue a bill of lading or receipt on the date freight is received for shipment. The bill of lading or receipt shows the following:

a. Name of motor carrier.

b. Date and place received.

c. Name of consignor.

d. Name of consignee.

e. Destination.

f. Description of shipment.

g. Signature of motor carrier or agent issuing the bill of lading or receipt.

h. Freight described in apparent good order unless an exception is noted.

22.10(2) *Retention.* There will be one copy of the bill of lading or receipt for the consignor, one for the consignee and one to be kept by the motor carrier. The copy may be either paper or electronic except that a bill of lading or receipt of freight consisting of hazardous materials must be a paper copy as required in accordance with 49 CFR Part 172. The motor carrier will carry a copy of the bill of lading or receipt with the cargo and shall show the total of all charges made for the movement of freight. The motor carrier will keep the bill of lading or receipt for a period of not less than one year. At any reasonable time, the bill of lading or receipt is subject to inspection by the department's representatives and any peace officer.

This rule is intended to implement Iowa Code section 325A.10.

[**ARC 9571C**, IAB 9/17/25, effective 10/22/25]

[Filed emergency 7/18/85—published 8/14/85, effective 7/19/85]
[Filed emergency 11/20/86—published 12/17/86, effective 11/21/86]
[Filed 2/6/87, Notice 12/17/86—published 2/25/87, effective 4/1/87]
[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]
[Filed emergency 5/29/87—published 6/17/87, effective 6/1/87]
[Filed emergency 7/22/87—published 8/12/87, effective 7/22/87]

[Filed 10/23/87, Notices 6/17/87, 8/12/87—published 11/18/87, effective 1/1/88]
[Filed emergency 3/30/88—published 4/20/88, effective 4/1/88]
[Filed 6/22/88, Notice 4/20/88—published 7/13/88, effective 8/17/88]
[Filed emergency 9/21/89—published 10/18/89, effective 9/21/89]
[Filed 11/30/89, Notice 10/18/89—published 12/27/89, effective 1/31/90]
[Filed 6/7/90, Notice 3/21/90—published 6/27/90, effective 8/1/90]
[Filed emergency 8/8/90—published 9/5/90, effective 8/10/90]
[Filed emergency 10/24/90—published 11/14/90, effective 10/24/90]
[Filed 11/7/90, Notice 9/5/90—published 11/28/90, effective 1/2/91]
[Filed 5/9/91, Notices 11/14/90, 2/20/91—published 5/29/91, effective 7/3/91]
[Filed 7/3/91, Notice 5/15/91—published 7/24/91, effective 8/28/91]
[Filed 8/26/92, Notice 7/22/92—published 9/16/92, effective 10/21/92][1]
[Filed 6/2/93, Notice 4/28/93—published 6/23/93, effective 7/28/93]
[Filed emergency 7/13/93—published 8/4/93, effective 7/13/93]
[Filed 9/8/94, Notice 8/3/94—published 9/28/94, effective 11/2/94]
[Filed 8/17/95, Notice 7/5/95—published 9/13/95, effective 10/18/95]
[Filed 5/1/96, Notice 3/27/96—published 5/22/96, effective 6/26/96]
[Filed 1/16/97, Notice 12/4/96—published 2/12/97, effective 3/19/97]
[Filed 5/22/97, Notice 4/9/97—published 6/18/97, effective 7/23/97]
[Filed 4/9/98, Notice 2/25/98—published 5/6/98, effective 6/10/98]
[Filed 2/10/99, Notice 12/30/98—published 3/10/99, effective 4/14/99]
[Filed 6/16/00, Notice 4/19/00—published 7/12/00, effective 8/16/00]
[Filed 4/11/01, Notice 3/7/01—published 5/2/01, effective 6/6/01]
[Filed 3/13/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]
[Filed 3/26/03, Notice 2/5/03—published 4/16/03, effective 5/21/03]
[Filed 9/24/03, Notice 8/20/03—published 10/15/03, effective 11/19/03]
[Filed 3/10/04, Notice 2/4/04—published 3/31/04, effective 5/5/04]
[Filed 3/9/05, Notice 2/2/05—published 3/30/05, effective 5/4/05]
[Filed 12/13/05, Notice 10/26/05—published 1/4/06, effective 2/8/06]
[Filed 2/21/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]
[Filed 5/14/08, Notice 4/9/08—published 6/4/08, effective 7/9/08]
[Filed ARC 7750B (Notice ARC 7601B, IAB 3/11/09), IAB 5/6/09, effective 6/10/09]
[Filed ARC 8720B (Notice ARC 8555B, IAB 3/10/10), IAB 5/5/10, effective 6/9/10]
[Filed ARC 9493B (Notice ARC 9417B, IAB 3/9/11), IAB 5/4/11, effective 6/8/11]
[Filed ARC 0034C (Notice ARC 9973B, IAB 1/11/12), IAB 3/7/12, effective 4/11/12]
[Filed ARC 0660C (Notice ARC 0591C, IAB 2/6/13), IAB 4/3/13, effective 5/8/13]
[Filed ARC 2019C (Notice ARC 1922C, IAB 4/1/15), IAB 6/10/15, effective 7/15/15]
[Filed ARC 2525C (Notice ARC 2401C, IAB 2/17/16), IAB 5/11/16, effective 6/15/16]
[Filed ARC 2986C (Notice ARC 2878C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]
[Filed Emergency ARC 3483C, IAB 12/6/17, effective 12/18/17]
[Filed ARC 3609C (Notice ARC 3482C, IAB 12/6/17), IAB 1/31/18, effective 3/7/18]
[Filed ARC 3840C (Notice ARC 3700C, IAB 3/28/18), IAB 6/6/18, effective 7/11/18]
[Filed ARC 4401C (Notice ARC 4256C, IAB 1/30/19), IAB 4/10/19, effective 5/15/19]
[Filed ARC 5018C (Notice ARC 4895C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]
[Filed ARC 5547C (Notice ARC 5411C, IAB 2/10/21), IAB 4/7/21, effective 5/12/21]
[Filed ARC 6307C (Notice ARC 6207C, IAB 2/23/22), IAB 5/4/22, effective 6/8/22]
[Filed ARC 6970C (Notice ARC 6822C, IAB 1/11/23), IAB 4/5/23, effective 5/10/23]
[Editorial change: IAC Supplement 7/26/23]
[Filed ARC 8008C (Notice ARC 7723C, IAB 3/20/24), IAB 5/15/24, effective 6/19/24]

[Filed ARC 9571C (Notice ARC 9386C, IAB 7/9/25), IAB 9/17/25, effective 10/22/25]

[1] Effective date of 520.1(1)*"a"* and *"b";* rescission of 520.1(2)*"b";* and 520.3 delayed until adjournment of the 1993 Regular Session of the General Assembly by the Administrative Rules Review Committee at its meeting held October 14, 1992; delay lifted by the Committee November 10, 1992.

CHAPTER 23
REFLECTIVE DEVICES ON SLOW-MOVING VEHICLES

[Appeared as Ch 3, Department of Public Safety, 1973 IDR]
[Prior to 6/3/87, Transportation Department[820]—(07,E) Ch 3]
[Prior to 8/7/24, see Transportation Department[761] Ch 452]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/11/31

661—23.1(321) Alternative reflective device. If a person operating a vehicle drawn by a horse or mule objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers, the vehicle may be identified by an alternative reflective device that is in compliance with the following:

23.1(1) The alternative reflective device will consist of one-inch-wide strips applied to the rear of the vehicle. The combined length of the strips will be at least 72 inches, and the strips, when applied, will approximate the outline of the vehicle.

23.1(2) The reflective material may be black, gray, silver or white in color but must reflect white when illuminated by other vehicles' headlamps.

23.1(3) The reflective material will be visible from a distance of not less than 500 feet from the rear of the vehicle when illuminated by other vehicles' headlamps.

23.1(4) The reflective material will be kept free of dirt and debris.

This rule is intended to implement Iowa Code section 321.383(2).

[**ARC 9963C**, IAB 1/7/26, effective 2/11/26]

[Filed 2/22/72; transferred to Department of Transportation 7/1/75]
[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]
[Filed 3/9/00, Notice 1/26/00—published 4/5/00, effective 5/10/00]
[Editorial change: IAC Supplement 2/24/21]
[Editorial change: IAC Supplement 8/7/24]
[Filed ARC 9963C (Notice ARC 9635C, IAB 10/29/25), IAB 1/7/26, effective 2/11/26]

CHAPTER 24
SAFETY REQUIREMENTS FOR MOVEMENT OF IMPLEMENTS OF HUSBANDRY ON ROADWAYS

[Prior to 8/7/24, see rule 761—450.6(321)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 10/22/30

661—24.1(321) Safety rules for the movement of implements of husbandry on a roadway. The following standards are minimum safety requirements for the movement of implements of husbandry on a roadway.

24.1(1) *Towing standard.* No power unit operated by a retail seller or manufacturer shall tow more than one implement of husbandry, except those implements of husbandry that are not self-propelled and are capable of being towed in tandem, from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

24.1(2) *Equipment standards.*

a. *Braking.* Braking equipment of the towing unit or self-propelled implement of husbandry is adequate under Iowa Code section 321.430 when the vehicle is traveling 20 miles per hour and the braking device does either of the following:

(1) Stops the vehicle or vehicles within 30 feet if the gross weight is less than 5,000 pounds.

(2) Stops the vehicle or vehicles within 50 feet if the gross weight is 5,000 pounds or more.

b. *Rearview mirror.* The rearview mirror equipment standard in Iowa Code section 321.437 may be met by the use and installation of a temporary rearview mirror.

c. *Lighting.* The requirement in Iowa Code section 321.387 applies to the towing or towed vehicle, the rearmost implement of husbandry being towed in tandem, or a self-propelled implement of husbandry. The rear taillight equipment standard may be met by the use and installation of a temporary rear taillight. If an implement of husbandry is being towed by a vehicle that is equipped with brake lights, the requirements of Iowa Code section 321.404 also apply to the towed unit.

d. *Turn signal.* The requirements of Iowa Code section 321.317 apply to the towing or towed vehicle, the rearmost implement of husbandry being towed in tandem, or a self-propelled implement of husbandry. The turn-signal device equipment standard may be met by the use and installation of a temporary turn-signal device.

e. *Tires.* The requirements of Iowa Code section 321.440 apply for pneumatic tires on the towing or towed vehicle, the rearmost implement of husbandry being towed in tandem, or a self-propelled implement of husbandry.

f. *Warning devices.* The requirements of Iowa Code section 321.383 apply to reflective devices on the self-propelled or towed implement of husbandry.

g. *Drawbar and safety chain.* The requirements of Iowa Code section 321.462 apply when one vehicle is being towed by another vehicle.

This rule is intended to implement Iowa Code section 321.383.

[**ARC 9572C**, IAB 9/17/25, effective 10/22/25]

[Filed ARC 9572C (Notice ARC 9384C, IAB 7/9/25), IAB 9/17/25, effective 10/22/25]

CHAPTER 25
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 2/11/09, effective 4/1/09

CHAPTERS 26 and 27
Reserved

CHAPTER 28
MARIJUANA ERADICATION PROCEDURES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—28.1(80) Reports of marijuana. Persons wishing to report marijuana growing in Iowa, whether cultivated or uncultivated, may contact any local law enforcement agency within the state of Iowa or the Division of Narcotics Enforcement, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Reports may be made to the division of narcotics enforcement by telephone through the toll-free Marijuana Hotline at 1-800-532-0052.
[Editorial change: IAC Supplement 6/17/09]

661—28.2(80) Cultivated marijuana. Upon receipt of information pertaining to marijuana cultivation or harvesting, the department of public safety, division of narcotics enforcement, shall investigate. If the information is valid and cultivation or harvesting of marijuana is confirmed, the division of narcotics enforcement shall initiate a criminal investigation, which may lead to the subsequent filing of criminal charges.

661—28.3(80) Uncultivated marijuana.

28.3(1) Upon receipt of information pertaining to wild uncultivated marijuana, the department of public safety, division of narcotics enforcement, shall notify the county sheriff of the report. If the property on which uncultivated marijuana is reported lies within a municipality with a police department, the chief of police shall also be notified. After the sheriff has been notified, the department of public safety, division of narcotics enforcement, shall notify, by regular mail, the owner of the land where uncultivated marijuana has been reported and shall request that the land owner voluntarily remove the marijuana. The county sheriff and the local policy chief, if any, shall be sent copies of the notice to the landowner, also by regular mail.

28.3(2) Notification to a landowner of information regarding uncultivated marijuana, as provided in subrule 28.3(1), shall be provided on a completed form "Notice of Marijuana Complaint."

Notification to a landowner of information regarding uncultivated marijuana growing on the landowner's property, as provided in this subrule, is intended to obtain voluntary cooperation in the eradication of marijuana.

28.3(3) The department shall provide information and training to law enforcement agencies regarding the identification and removal of marijuana and assistance to the Iowa State University Agriculture and Home Economics Extension Service in developing programs concerning the identification and removal of marijuana.

661—28.4(80) Scope and limitation. Nothing in this chapter shall be construed to be a restriction or limitation upon the nature or scope of the authority of any member of the department of public safety or of any other public officer as otherwise provided by law.

These rules are intended to implement Iowa Code section 80.9.

[Filed 10/15/91, Notice 7/10/91—published 11/13/91, effective 1/1/92]
[Editorial change: IAC Supplement 6/17/09]

CHAPTER 29
HUMAN TRAFFICKING PREVENTION TRAINING—LODGING PROVIDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—29.1(80) Definitions. The definitions in Iowa Code section 80.45A(1) are adopted and incorporated herein.
[**ARC 5973C**, IAB 10/20/21, effective 11/24/21]

661—29.2(80) Establishment of training program. The department of public safety's human trafficking prevention training program certifies a lodging provider's voluntary completion of human trafficking prevention training. The program is established pursuant to Iowa Code section 80.45A. No lodging provider may accept public funds from a public employer or public employee without first receiving certification by the commissioner.
[**ARC 5973C**, IAB 10/20/21, effective 11/24/21]

661—29.3(80) Human trafficking prevention training program content. In order to receive approval by the commissioner, human trafficking prevention training shall include, at a minimum, all of the following:

29.3(1) A general overview of human trafficking.

29.3(2) A general overview of state law on human trafficking.

29.3(3) The definition of human trafficking and the commercial exploitation of children.

29.3(4) Guidance on the difference between labor trafficking and sex trafficking.

29.3(5) Guidance on how to recognize potential human trafficking victims.

29.3(6) Guidance on how to recognize potential human traffickers.

29.3(7) Guidance on how to identify activities commonly associated with human trafficking.

29.3(8) Safe and effective responses to human trafficking situations, including but not limited to how to report suspected human trafficking to proper law enforcement officials.
[**ARC 5973C**, IAB 10/20/21, effective 11/24/21]

661—29.4(80) Training providers.

29.4(1) *Training.* Human trafficking prevention training that meets the criteria of rule 661—29.3(80) may be offered by the office to combat human trafficking, a governmental agency, or a nongovernmental agency or community organization that has expertise in the area of human trafficking and approval by the commissioner. A list of certified training providers is maintained on the office to combat human trafficking website.

29.4(2) *Approval process for organizations.* Organizations shall not issue human trafficking prevention training certifications to lodging providers for purposes of this rule prior to receiving approval by the commissioner. To receive approval to conduct a training program, a training provider must apply through the office to combat human trafficking website and provide sufficient information to establish the training program meets the requirements of rule 661—29.3(80).
[**ARC 5973C**, IAB 10/20/21, effective 11/24/21]

661—29.5(80) Certification for lodging providers and their employees. Beginning January 1, 2022, lodging providers, in order to accept public funds for any of the purposes stated in Iowa Code section 80.45A(5)*"c,"* must complete and certify to the commissioner that each of the lodging provider's employees has completed human trafficking prevention training. All current, certified lodging providers are listed on the office to combat human trafficking website.

29.5(1) *Application.* Any lodging provider seeking certification of completed human trafficking prevention training shall submit a completed application form to the office to combat human trafficking website. The online application form shall not be considered complete unless all required information is submitted, including verification of employee training certificates, and shall not be processed until it is complete.

NOTE: The website for human trafficking prevention training and certification for employees, lodging providers, and training providers is www.stophtiowa.org.

29.5(2) *Fee.* There is no fee for lodging providers to request or renew a trafficking prevention training certification. Approved organizational training providers, under subrule 29.4(2), may charge fees for training programs; however, lodging providers are under no obligation to utilize such training providers.

29.5(3) *Maintenance of records.* Lodging providers shall maintain up-to-date human trafficking prevention training certification records on all current employees, at all times, in order to maintain a valid certification. A lodging provider shall produce human trafficking prevention training records for each employee and complete employee lists upon request by the office to combat human trafficking at any time.

29.5(4) *Revocation.* The commissioner has authorized the office to combat human trafficking to revoke a lodging provider's certification at any time. If all employees of a certified lodging provider fail to renew their trainings every three years, the office to combat human trafficking shall remove the lodging provider from the approved list of providers and revoke the lodging provider's certification. Failure to maintain records of individual employee certifications may result in the revocation of a lodging provider's certification.

29.5(5) *Certification expiration.* All human trafficking prevention training certificates issued by the office to combat human trafficking shall bear an expiration date. All employees of a certified lodging provider must complete approved human trafficking prevention training every three years for the lodging provider to maintain a valid certification and to receive public funds.

29.5(6) *Grace periods.* Lodging providers are responsible for ensuring lodging certifications are current and valid, and that new employees successfully complete human trafficking prevention training. Employees shall have a grace period of 30 days from when their previous training certificate expires to complete a new, approved training. Certificates expire three years from the date on which they were issued.

a. Lodging providers. The application shall be filed no later than 30 days after beginning operation in this state or the date on which an existing training certification expires.

b. Employees of lodging providers. The application shall be filed no later than 30 days after the date of hire or the date on which an existing training certification expires.

[**ARC 5973C**, IAB 10/20/21, effective 11/24/21]

These rules are intended to implement Iowa Code section 80.45A.

[Filed ARC 5973C (Notice ARC 5780C, IAB 7/14/21), IAB 10/20/21, effective 11/24/21]

CHAPTERS 30 to 34
Reserved

CHAPTER 35
COMPLAINTS AGAINST EMPLOYEES

[Prior to 11/8/06, see 661—Ch 9]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—35.1(80) Definitions. The following definitions apply to rules 661—35.1(80) through 661—35.4(80):

"Complaint" means a formal written allegation signed by the complainant, or a signed written statement by an officer receiving an oral complaint stating the complainant's allegation regarding, but not limited to, breach of rules or orders, a violation of the law, or other misconduct by an employee of the department.

"Department" means the Iowa department of public safety.

"Employee" means any employee of the department.

[**ARC 6230C**, IAB 3/9/22, effective 4/13/22]

661—35.2(80) Filing a complaint.

35.2(1) Any person may file a complaint against an employee or employees by:

a. Mailing a signed complaint in writing to the professional standards bureau at the following address:

Professional Standards Bureau
Iowa Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319

Complaints in writing may be mailed or submitted to any office of the department.

b. Calling the professional standards bureau at (515)725-6270, or by calling any office of the department.

c. Completing the commendation/complaint form online on the website of the department.

NOTE: The complaint form may be found at the following location: stateofiowa.seamlessdocs.com/f/PSB_Complaint_Form.

35.2(2) The complainant should describe as specifically and completely as possible the nature of the complaint and the details of any incident or incidents which give rise to the complaint.

35.2(3) Each complaint received will be recorded and investigated.

35.2(4) The complainant need not be identified if a statement is received as an oral complaint. Anonymous complaints will be accepted and investigated as thoroughly as possible.

[Editorial change: IAC Supplement 6/17/09; Editorial change: IAC Supplement 9/8/21; **ARC 6230C**, IAB 3/9/22, effective 4/13/22]

661—35.3(80) Notification to complainant. The professional standards bureau shall provide any identified complainant with a written receipt of the complaint and may provide additional information regarding the complaint and its disposition as permitted by law.

661—35.4(80) Investigation requirements of agency.

35.4(1) *Recordkeeping and release of information.* The department shall keep confidential an officer's statement, recordings or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer unless otherwise provided by law or with the officer's written consent. Nothing in this rule prohibits the release of an officer's statement, recordings or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer to the officer or the officer's legal counsel upon the officer's request.

35.4(2) *Training of investigating employee.* The department shall provide training to any officer or supervisor who performs or supervises an investigation under Iowa Code section 80F.1, and shall maintain documentation of any related training. The Iowa law enforcement academy shall adopt minimum training

standards consistent with this rule, including training standards concerning interviewing an officer subject to a complaint.

35.4(3) *Right of officer to personnel file and records.* Upon written request, the department shall provide to the requesting officer or the officer's legal counsel a copy of the officer's personnel file and training records regardless of whether the officer is subject to a formal administrative investigation at the time of the request.

This rule is intended to implement Iowa Code sections 80F.1(20) through 80F.1(22).

[**ARC 6230C**, IAB 3/9/22, effective 4/13/22]

These rules are intended to implement Iowa Code chapter 80.

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed 10/19/06, Notice 9/13/06—published 11/8/06, effective 1/1/07]
[Editorial change: IAC Supplement 6/17/09]
[Editorial change: IAC Supplement 9/8/21]
[Filed ARC 6230C (Notice ARC 6052C, IAB 11/17/21), IAB 3/9/22, effective 4/13/22]

CHAPTERS 36 to 40
Reserved

CHAPTER 41
PAYMENT OF SMALL CLAIMS TO EMPLOYEES

[Prior to 5/23/07, see 661—Ch 14]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—41.1(17A,80) Authorization to reimburse. The department is authorized to expend up to $150 per item, or any other amount authorized by a collective bargaining agreement to which an individual employee is subject, as reimbursement for replacement or repair of personal items of the department's employees that have been damaged or destroyed while the employee is engaged in service for the department. The following requirements shall apply for filing such claims with the department:

41.1(1) An employee making a claim for reimbursement shall provide the employee's immediate supervisor with a detailed written account of the circumstances under which the loss occurred, a description of the nature and ownership of the item destroyed or damaged and any available information, including the names and other identifiers of any witness, which can be used to verify the loss.

41.1(2) An employee filing a claim for reimbursement pursuant to this rule shall also provide the employee's immediate supervisor with vendors' estimates of replacement costs and with estimates of repair costs of damaged items.

41.1(3) The claim and estimates shall be passed through the chain of command for reimbursement. Reimbursement shall be based on a determination of the most economical and adequate compensation for the loss, taking into account the extent of the damage, the feasibility of repair and the cost of replacement.

This rule is intended to implement Iowa Code section 80.18.

[Filed 5/3/07, Notice 3/28/07—published 5/23/07, effective 7/1/07]

CHAPTERS 42 to 50
Reserved

CHAPTER 51
FLAMMABLE AND COMBUSTIBLE LIQUIDS
[Prior to 11/27/02, see rules 661—5.250(101) to 661—5.450(101)]
Rescinded IAB 12/14/11, effective 2/1/12

CHAPTER 52
Reserved

CHAPTER 53
FIRE SERVICE TRAINING BUREAU

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—53.1(80) Fire service training bureau. There is established within the state fire marshal division a fire service training bureau, with responsibility for instructing the general public and fire protection personnel throughout the state, providing service to public and private fire departments in the state, conducting research in the methods of maintaining and improving fire and other emergency services education consistent with the needs of Iowa communities, and performing any other functions assigned to the bureau by the state fire marshal in consultation with the state fire service and emergency response council.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—53.2(80) Programs, services, and fees.

53.2(1) *Courses and registration fees.* Current course offerings and associated registration and other related course fees of the fire service training bureau are available in electronic format via the fire service training bureau web page, and hard copy upon request. Current course registration fees and any other fees related to participation in courses shall be listed in electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective students should inquire of the fire service training bureau as to the date of most recent publication of any courses, services, and fees prior to submitting registration and other fees for a course.

53.2(2) *Conferences and fees.* Upcoming conferences offered by the fire service training bureau are listed in electronic format via the fire service training bureau web page, and hard copy upon request. Conference registration fees and any other fees related to attendance at conferences shall be listed in electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective students should inquire of the fire service training bureau as to the date of most recent publication of any conferences and associated fees prior to submitting registration fees or any other fees related to attendance at a conference.

53.2(3) *Publications and materials; fees.* All publications and materials currently offered for sale by the fire service training bureau are listed in electronic format via the fire service training bureau web page, and hard copy upon request. Current prices of publications shall be listed in electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Persons wishing to purchase publications or materials should inquire of the fire service training bureau as to the date of most recent publication and associated fees prior to submitting payment for publications or materials.

53.2(4) *Other services and tuition fees.* Services other than courses, conferences, and firefighter certification offered by the fire service training bureau are listed in electronic format via the fire service training bureau web page, and hard copy upon request. Current fees for these services shall be listed in electronic format via the fire service training bureau web page, and hard copy upon request, and shall be effective until superseded by publication of a later edition of the web page and document. Prospective clients for these services should inquire of the fire service training bureau as to the date of most recent publication of services and fees prior to submitting a request for or payment for any service.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19; **ARC 5603C**, IAB 5/5/21, effective 6/9/21]

These rules are intended to implement Iowa Code section 80.5.

[Filed emergency 6/22/00—published 7/12/00, effective 7/1/00]
[Filed ARC 4641C (Notice ARC 4522C, IAB 7/3/19), IAB 8/28/19, effective 10/2/19]
[Filed ARC 5603C (Notice ARC 5501C, IAB 3/10/21), IAB 5/5/21, effective 6/9/21]

CHAPTER 54
FIRE FIGHTER CERTIFICATION
Rescinded IAB 9/29/04, effective 12/1/04

CHAPTER 55
FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS
Rescinded IAB 1/5/05, effective 3/1/05

CHAPTERS 56 to 58
Reserved

CHAPTER 59
VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS
Rescinded IAB 1/5/05, effective 3/1/05

CHAPTER 60
Reserved

CHAPTER 61
FIRE SAFE CIGARETTE CERTIFICATION PROGRAM
Transferred to 481—Chapter 261, IAC Supplement 11/26/25

CHAPTERS 62 to 79
Reserved

CHAPTER 80
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 2/11/09, see 661—Ch 25]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

PREAMBLE

Scope. These rules are to provide notice of how the department keeps records and what the procedures are for access by the public. Nothing in these rules affects the access of information by law enforcement agencies, agencies of government or persons authorized by chapter 692 of the Iowa Code to receive information.

661—80.1(17A,22) Definition. As used in this chapter:

"Agency" means the "department of public safety."

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.3(17A,22) Requests for access to records.

80.3(1) *Location of record.* A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Public Information Bureau, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

80.3(2) *Office hours.* Open records shall be made available during customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays.

80.3(3) *Request for access.* A request for access to open records may be made in writing, by electronic mail, in person, or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

80.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian shall also provide to the requester an estimate of any fees which will be assessed to cover the costs of complying with the request.

80.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

80.3(6) *Copying.* A reasonable number of copies of an open record may be made in the departmental office. If photocopy equipment is not available in the departmental office where an open record is kept, the custodian shall permit its examination in that office or a nearby location and shall arrange to have copies promptly made elsewhere. An electronic copy may be provided if mutually agreeable to the custodian and the requester.

80.3(7) *Fees.*

a. *When charged.* The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. *Search and supervisory fees.* Fees may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The custodian shall notify the requester of the hourly fees to be charged for searching for records and supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform these search and supervisory functions.

d. *Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the full amount of any fees previously owed and of any estimated fees for the new request prior to processing any new request from the requester.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.4(17A,22) Procedures for access to confidential records. This rule contains the provisions governing public access to confidential records in addition to those specified for all records in rule 661—80.3(17A,22). These provisions do not apply to law enforcement agencies, agencies of government or persons authorized by Iowa Code chapter 692 or 100A to receive confidential information.

80.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

80.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

80.4(3) Reserved.

80.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

80.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.5(17A,22) Requests for treatment of a record as a confidential record.

80.5(1) Any person who would be substantially or irreparably injured by disclosure of all or a part of a record to members of the public may file a request, as provided in this rule, for its treatment as a confidential record. Failure of a person to request confidential record treatment for all or part of a record does not preclude the agency from treating it as a confidential record.

80.5(2) A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian of that record. The request shall include an enumeration of the specific grounds upon which examination would not be in the public interest; the specific provisions of law

that authorize confidential record treatment; and the name, address, and telephone number of the person authorized to respond to any agency action concerning the request. A person filing a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting confidentiality at the same time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are a confidential record. Requests for treatment of all or portions of a record as a confidential record for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

80.5(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

80.5(4) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

80.5(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

80.5(6) Request denied. If a request for confidential record treatment is denied, the requester may seek review or relief under Iowa Code section 22.8.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record. Except as otherwise provided by law, the subject of a record shall have the right to have a written statement of additions, dissents, or objections entered into the record. The subject shall send the statement to the custodian of the record. The statement must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject's representative.

Exception:

This rule does not apply to criminal investigation, identification or intelligence files. Access to criminal history data shall be governed by Iowa Code section 692.5.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.7(17A,22) Consent to disclosure by the subject of a confidential record. The subject of a confidential record may consent to agency disclosure to a third party of that portion of the record concerning the subject. The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person, or class of persons, to whom the record may be disclosed, and where applicable, the time period during which the record may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity.

Exception:

This rule does not apply to criminal investigation, identification or intelligence files. Access to criminal history data shall be governed by Iowa Code section 692.5.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.8 Reserved.

661—80.9(17A,22) Disclosures without the consent of the subject.

80.9(1) Open records are routinely disclosed without the consent of the subject.

80.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 661—80.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.10(17A,22) Routine use.

80.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

80.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.11(17A,22) Records retention manual. The department's "Records Retention Manual" contains the records management information required by Iowa Code chapter 22. The manual is available for examination and copying at the Public Information Bureau, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.12(17A,22) Data processing system. All departmental data processing systems that have common data elements can potentially match, collate or compare personally identifiable information.
[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.13(22) Confidential records. This rule describes the types of departmental information or records that are confidential, in addition to those listed in Iowa Code chapter 22. This rule is not exhaustive.

1. Investigative reports including laboratory reports. (Iowa Code sections 22.7, 622.11, 692.2)
2. Criminal histories. (Iowa Code sections 22.7, 622.11, 692.2)
3. Intelligence reports. (Iowa Code sections 22.7, 622.11, 692.2)
4. Domestic abuse reports. Information which individually identifies perpetrators or victims of domestic abuse. (Iowa Code sections 22.7, 236.9)
5. Radio communication log where it contains criminal history and intelligence information. (Iowa Code sections 22.7, 692.2)
6. Personal information in confidential personnel files including but not limited to evaluations, discipline, social security numbers, medical and psychological evaluations.
7. Complaint files, investigative files and similar information relating to private investigative agency licensees. (Iowa Code sections 22.7, 80A.17)
8. Records received from other agencies which would be confidential if created by the department. (Iowa Code sections 22.7, 692.2, 692.3)
9. Any report, manual, or other record which contains information concerning security procedures or emergency preparedness information related to the protection of employees of the department, employees of other agencies of state government, employees of other units of government, visitors to state government facilities or offices, other persons on premises controlled by any state or local government agency, or property owned by or under the control of the department, any other state agency, or any other unit of government, or information concerning security procedures or emergency preparedness information related to persons or property owned by or under the control of a private entity if that information was obtained by the department in relation to planning for emergencies or developing security procedures, or with an assurance that the information would be maintained as confidential.

[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.14(252J) Release of confidential licensing information for child support recovery purposes. Notwithstanding any statutory confidentiality provision, the department may share information with the child support recovery unit of the Iowa department of human services through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement of child support orders pursuant to Iowa Code chapter 252J or 598.
[**ARC 7562B**, IAB 2/11/09, effective 4/1/09]

661—80.15(22,80F) Release of official photographs of or personal information about employees.

80.15(1) An official photograph of or personal information about an employee of the department who is an officer as defined in Iowa Code section 80F.1 shall be released only if either of the following is true:

a. The employee has signed a written release giving permission to release the photograph or personal information; or

b. A request has been received to release the photograph or personal information pursuant to Iowa Code chapter 22.

80.15(2) A photograph of or personal information about any employee of the department shall not be released if its release could jeopardize an ongoing investigation or place the employee at risk.

80.15(3) An officer's personal information, including but not limited to the officer's home address, personal telephone number, personal electronic mail address, date of birth, social security number, and driver's license number, shall be confidential and redacted prior to a record's release to the public by the department.
[**ARC 7562B**, IAB 2/11/09, effective 4/1/09; **ARC 6230C**, IAB 3/9/22, effective 4/13/22]

These rules are intended to implement Iowa Code chapters 22 and 80F.

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 7/1/88]

[Filed 7/25/96, Notice 6/19/96—published 8/14/96, effective 10/1/96]
[Filed emergency 6/25/07—published 7/18/07, effective 7/1/07]
[Filed ARC 7562B (Notice ARC 6916B, IAB 7/2/08), IAB 2/11/09, effective 4/1/09]
[Filed ARC 6230C (Notice ARC 6052C, IAB 11/17/21), IAB 3/9/22, effective 4/13/22]

CHAPTER 81
CRIMINAL INTELLIGENCE INFORMATION

[Prior to 11/8/06, see 661—8.201(692) to 8.207(692)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—81.1(692) Definitions. The following definitions apply to rules 661—81.1(692) through 661—81.5(692).

"Criminal intelligence file" means information stored in a criminal intelligence system that is compiled in an effort to anticipate, prevent, or monitor possible criminal activity on:

1. An individual who, based upon reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts or is believed to be involved in criminal activities with known or suspected criminal offenders.

2. A group, organization or business which, based on reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts, or of being illegally operated, controlled, financed, promoted, or infiltrated by known or suspected criminal offenders.

3. An incident in which sufficient articulable facts give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that a definable criminal activity or enterprise is, has been, or may be committed.

"Criminal intelligence file" does not include surveillance data as defined in Iowa Code section 692.1.

"Criminal intelligence system" means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information.

"Need to know" is established if criminal intelligence information will assist a recipient in anticipating, investigating, monitoring, or preventing possible criminal activity or if criminal intelligence information is pertinent to protecting a person or property from a threat of imminent serious harm.

"Noncriminal identifying information" means information about the characteristics and associations of an identifiable person suspected of being involved in criminal activity.

"Reasonable grounds" means information that establishes sufficient articulable facts that give a trained law enforcement or criminal investigative agency officer, investigator, or employee a reasonable basis to believe that a definable criminal activity or enterprise is, has been, or may be committed.

"Right to know" is established when a recipient of criminal intelligence information is legally permitted to receive intelligence data or an intelligence assessment.

"Surveillance data" means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person. Noncriminal identifying information does not constitute surveillance data.

"Threat of imminent serious harm" means a credible impending threat to the safety of a person or property. A threat of imminent serious harm justifies the dissemination of intelligence data or an intelligence assessment for the purpose of protecting a person or property from the threat.

661—81.2(692) Iowa law enforcement intelligence network (LEIN) information system.

81.2(1) *LEIN information system.* The Iowa law enforcement intelligence network (LEIN) information system is the statewide interjurisdictional intelligence system maintained and operated by the intelligence bureau of the department of public safety, for the regular interagency exchange of criminal intelligence files. Criminal intelligence files contained in the LEIN information system may be disseminated or redisseminated by the intelligence bureau of the department of public safety, consistent with Iowa Code chapter 692.

81.2(2) *Direct computer access.* The commissioner of public safety may authorize a peace officer, criminal justice agency, or state or federal regulatory agency to access the LEIN information system directly via a remote computer terminal, provided that the authorized individual or agency

follows approved procedures regarding receipt, maintenance, dissemination, submission and security of information, and related training. Authorization may be provided in writing or electronically.

81.2(3) *Termination of authorization for direct computer access.* The commissioner of public safety may, at any time for good cause, terminate authorization for direct, remote computer access to the LEIN information system which has been previously approved. An individual or agency whose authorization to directly access the LEIN information system via remote computer has been terminated may appeal the termination in accordance with procedures for contested cases established in 661—Chapter 10.

81.2(4) *Reinstatement of authorization for direct computer access.* Any user whose authorization for direct, remote computer access to the LEIN information system has been terminated may apply for the authorization for access to be reinstated, provided that the problem which led to the termination has been corrected.

81.2(5) *Applications for direct computer access.* To apply for direct, remote computer access to the LEIN information system or to obtain further information about the LEIN information system, a person shall contact the Intelligence Bureau, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or by electronic mail via the Internet at intinfo@dps.state.ia.us.

81.2(6) *Entry of information—restrictions.* Information about the political, religious, racial, or social views, associations, activities or sexual orientation of any individual shall not be entered into the LEIN information system unless such information constitutes noncriminal identifying information or is relevant to an investigation of criminal conduct or activity involving an identifiable individual.

81.2(7) *Entry of information—conformance with applicable law.* No information that is deemed unreliable because it has been obtained in violation of any applicable federal, state, or local law or ordinance, or these rules, may be entered into the LEIN information system.

81.2(8) *Dissemination.* Intelligence data from the LEIN information system may be disseminated only to peace officers, criminal justice agencies, or state or federal regulatory agencies. Intelligence data from the LEIN information system may be disseminated only when there is a right to know and a need to know in the performance of a law enforcement activity. Intelligence data from the LEIN information system shall not be disseminated to any user whose authorization to access the LEIN information system has been terminated and has not been reinstated.

Exception:

Intelligence assessments may be disseminated to any agency or organization for an official purpose or to a person in order to protect a person or property from the threat of imminent serious harm as defined in rule 661—81.1(692).

81.2(9) *Redissemination of intelligence data.* An agency, organization, or person receiving intelligence data from the department pursuant to Iowa Code chapter 692 may redisseminate the intelligence data only if authorized by the agency or peace officer who originally provided the data and if the data is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the information is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, redissemination is allowed only if such redissemination is for an official purpose and if the information is redisseminated in order to protect a person or property from the threat of imminent serious harm. The department may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence data. Any agency, organization, or person who redisseminates intelligence data pursuant to Iowa Code chapter 692 must maintain a list of the agencies, organizations, and persons receiving the intelligence data and the purpose of the redissemination. Intelligence data must be maintained separately from and should not be included in any form in any investigative or prosecutorial files.

81.2(10) *Redissemination of intelligence assessment.* An agency, organization, or person receiving an intelligence assessment from the department pursuant to Iowa Code chapter 692 may redisseminate the intelligence assessment only if authorized by the department and only if the redissemination is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the intelligence assessment is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, redissemination is allowed only if such redissemination is to

protect a person or property from the threat of imminent serious harm. The department may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence assessment. Any agency, organization, or person who redisseminates an intelligence assessment pursuant to Iowa Code chapter 692 must maintain a list of the agencies, organizations, and persons receiving the intelligence assessment and the purpose of the redissemination. An agency, organization, or person who redisseminates information without proper authorization may be prohibited from receiving further intelligence assessments.

[Editorial change: IAC Supplement 6/17/09]

661—81.3(692) Criminal intelligence file security. The intelligence bureau of the department of public safety shall adopt administrative, technical, and physical safeguards, including audit trails, to ensure against unauthorized access and against intentional or unintentional damage to the LEIN information system. These safeguards shall include, but are not limited to, the following:

81.3(1) Records indicating who has been given the information, the reason for release of information, and the date of any dissemination shall be maintained until the information has been purged.

81.3(2) Criminal intelligence files shall be labeled to indicate security level and identities of submitting agencies and submitting individual.

81.3(3) Where appropriate, effective and technologically advanced computer software and hardware designs shall be implemented to prevent unauthorized access.

81.3(4) Any access to criminal intelligence files and computing facilities in which the files are stored shall be restricted to authorized personnel.

81.3(5) Criminal intelligence files shall be stored in such a manner that the files cannot be modified, destroyed, accessed, purged, or overlaid in any fashion by unauthorized personnel.

81.3(6) Computer systems on which criminal intelligence files are stored shall be programmed to detect, reject, and record any unauthorized attempt to access, modify, or destroy criminal intelligence files or to otherwise penetrate the security safeguards on such a system.

81.3(7) Access to any information required to gain authorized access to criminal intelligence files, including access codes and passwords, shall be restricted only to personnel authorized to access these files. The intelligence bureau shall ensure that criminal intelligence files remain confidential when specific agreements are entered into with individuals or organizations that provide computer or programming support to the agency.

81.3(8) Procedures shall be adopted to protect criminal intelligence files from unauthorized access, theft, sabotage, fire, flood, wind, and natural or other disasters.

81.3(9) Procedures shall be adopted which establish the right of the intelligence bureau to screen and, if appropriate, reject for employment any personnel who would, if hired, have access to criminal intelligence files.

81.3(10) Procedures shall be established which allow the removal or transfer, based on good cause, of any existing employees from positions in which they have access to criminal intelligence files.

81.3(11) Any compromise, or suspected compromise, of information that would allow unauthorized access into criminal intelligence files shall be reported without delay and, in any event, by the end of the next business day, to a supervisor within the intelligence bureau of the department of public safety.

81.3(12) Any compromise, or suspected compromise, of information contained in criminal intelligence files shall be reported without delay and, in any event, by the end of the next business day, to a supervisor within the intelligence bureau of the department of public safety.

661—81.4(692) Review of criminal intelligence files—purging.

81.4(1) The intelligence bureau of the department of public safety shall regularly review the information in criminal intelligence files for reclassification or purging. Decisions to retain, reclassify, or purge criminal intelligence files shall:

a. Ensure that the information is current, accurate and relevant to the needs of the agency.

b. Safeguard individual privacy interests protected by federal and state laws.

c. Ensure that security classifications remain appropriate.

81.4(2) Information that is misleading, unreliable, or no longer useful shall be purged or reclassified when necessary, without delay and, in any event, within one business day of the discovery that the information is misleading, unreliable, or no longer useful. Any person or agency to which the criminal intelligence file was disseminated shall be notified of the reclassification or purge.

81.4(3) All information shall be reviewed within a five-year period of its submission to ensure compliance with subrule 81.4(1).

81.4(4) All information retained as a result of a review shall reflect the name of the reviewer, date of review, and an explanation of the decision to retain.

81.4(5) Information that is not retained in a criminal intelligence file after a review shall be deleted from the LEIN information system.

661—81.5(692) Subpoenas and court orders. Any agency or individual shall notify the department of public safety in writing without delay and, in any event, by the end of the next business day of the receipt of any subpoena, court order, request for production, or other legal process demanding the production of a criminal intelligence file, so that the department has an opportunity to make a timely resistance.

These rules are intended to implement Iowa Code chapter 692.

[Filed 10/19/06, Notice 9/13/06—published 11/8/06, effective 1/1/07]
[Editorial change: IAC Supplement 6/17/09]

CHAPTER 82
CRIMINAL HISTORY AND FINGERPRINT RECORDS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—82.1(690,692) Records and identification section. The records and identification section of the division of criminal investigation of the department of public safety maintains information necessary to identify persons with criminal histories. The section collects, files and disseminates criminal history data to authorized criminal justice agencies and to the public upon request and updates criminal history data on a continuing basis.

[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.2(690,692) Definitions. The following definitions apply to rules 661—82.1(690,692) through 661—82.301(232):

"Authorized agency" means a division or office of the state of Iowa designated to report, receive, or disseminate information under Iowa state law, administrative rule or Public Law 103-209.

"Criminal identification records" means either of the following records, the forms for which are provided by the department to law enforcement agencies:

1. Department of public safety arrest fingerprint cards.
2. State of Iowa final disposition reports.

"Department" means the Iowa department of public safety.

"Division" means the division of criminal investigation of the department of public safety.

"Employee" means a person who provides services and is compensated for those services.

"Fee" means any cost associated with conducting a state or national criminal history record check.

"Felony" and *"misdemeanor"* shall have the same meanings and classifications as described in Iowa Code sections 701.7 and 701.8.

"Fitness determination" means an analysis of criminal history information to determine whether or not the criminal history information disqualifies an individual from holding a particular position or license either as an employee or a volunteer.

"National record check" means a criminal history record check from the FBI that is fingerprint-based and is transmitted through the state central repository.

"Non-criminal justice agency" means an agency that is authorized by law to receive criminal history data from the department; that is not a "criminal or juvenile justice agency" as defined in Iowa Code section 692.1, subsection 7; and that is not an institution which trains law enforcement officers for certification under Iowa Code chapter 80B.

"Qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies persons or entities to provide care or care placement services, treatment, education, training, instruction, supervision or recreation to children, the elderly or individuals with disabilities.

"Taking of fingerprints" means obtaining a fully rolled set of inked fingerprint or electronically scanned fingerprint impressions of suitable quality for fingerprint classification and identification.

"Volunteer" means a person who provides services without compensation.

"Working day" means any day except any of the following:

1. Saturday.
2. Sunday.
3. State holiday.
4. Federal holiday during which the administrative office of the submitting agency is closed.
5. Any day during which the administrative office of the submitting agency is closed or relocated due to weather or road conditions or any condition related to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.3(690,692) Tracking criminal history data. For audit purposes only, the division of criminal investigation shall establish an internal procedure for tracking criminal history data expunged from the files of the division.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.4 to **82.100** Reserved.

DIVISION I
CRIMINAL HISTORY DATA

661—82.101(690,692) Release of information. Criminal history data maintained by the records and identification section are public records and are released to criminal justice agencies and the public as authorized by statute. Only the department of public safety may release criminal history information maintained by the department to non-criminal justice agencies or persons.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.102(690,692) Right of review. Any person who has a criminal history record on file with the division of criminal investigation has the right to examine and obtain a copy of the record. This right may be exercised by an attorney acting on behalf of a person with a criminal history record only with written authorization and fingerprint identification of the person with the criminal history record. Providing a copy of a criminal history record pursuant to this rule is subject to the fee provided in rule 661—82.109(692).
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.103(690,692) Review of record. An individual or an individual's attorney, acting with written authorization from the individual, may obtain a copy of the individual's criminal history record during normal business hours at the headquarters of the division or by submitting a request on a form provided by the department of public safety. A copy of this request form may be obtained by writing to Division of Criminal Investigation, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by telephoning the records and identification section at (515)725-6066; or by sending a request by electronic mail to cchinfo@dps.state.ia.us. The request form may also be downloaded from the division's Web site. The completed request form must be notarized, if submitted by mail; be accompanied by a set of the fingerprints of the individual whose criminal history record is being requested; and include submission of the fee established in rule 661—82.109(692). After the record check has been completed, the fingerprints submitted for verification shall be returned, upon request, or destroyed.

NOTE: The Web site of the division of criminal investigation is www.dps.state.ia.us/dci.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.104(17A,690,692) Inaccuracies in criminal history record. If an individual believes inaccuracies exist in the individual's criminal history record, notice may be filed with the division outlining the alleged inaccuracies and should be accompanied by any available supporting data. In all instances where a notice is so filed, the division shall contact the appropriate arresting agencies, courts of record or institutions to verify accuracy of the criminal history record. Any necessary changes shall be made to the individual's criminal history record. Any agency that previously received a copy of the inaccurate record shall be so notified with a corrected copy. A final report shall be made to the individual who filed a notice of correction within 20 days of said filing. If, after notice is filed and the division makes its final report, the individual is still of the opinion that inaccuracies exist within the record, an appeal of the final decision of the division to the Polk County district court may be made.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.105(17A,690,692) Arresting agency portion of final disposition form. The sheriff of each county and the chief of police of each city shall complete the arresting agency portion of the final disposition forms with the arrest information for all persons whose fingerprints are taken in accordance

with these rules or Iowa Code section 690.2, and thereafter forward the form to the appropriate county attorney or, at the discretion of the county attorney, to the clerk of district court, or if the case remains in juvenile court, to the juvenile court officer who received the referral.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.106(690,692) Final disposition form. When a preliminary information or citation is dismissed without new charges being filed or when a case is ignored by a grand jury, the county attorney or juvenile court officer who received the referral shall complete a final disposition form and submit it to the division of criminal investigation within 30 days. When an indictment is returned or a county attorney's information is filed, the final disposition form shall be forwarded by the county attorney to the clerk of the court having jurisdiction. The clerk of court shall forward a copy to the division of criminal investigation within 30 days after judgment. If a juvenile is processed through juvenile court, the juvenile court officer shall forward the disposition form to the division of criminal investigation.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.107(692) Release of information to the public.

82.107(1) The department may release criminal history information to any person or public or private agency upon request by any method approved by the department. Requesters may not receive information regarding arrests older than 18 months that do not have dispositions or deferred judgments when the department has received official notice of successful completion of probation, unless a waiver has been provided to the requester from the person who is the subject of the criminal history information and the waiver is presented to the department at the time the request for the information is made.

82.107(2) Each record released to a non-criminal justice agency shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.108(692) Scope of record checks for non-criminal justice agencies and individuals. Record checks made for non-criminal justice agencies and individuals pursuant to these rules are based upon name, including maiden name and aliases, if any, and birth date. This information may not be sufficient to effect a precise identification of a subject. A record check based solely upon name and birth date may refer to multiple subjects or may not result in positive identification of the subject of the request. The records of the department are based upon reports from other agencies. The department, therefore, cannot warrant the completeness or accuracy of the information provided. Agencies and individuals that receive criminal history information are therefore advised to verify all information received from the department to the extent possible (e.g., by contacting the reported arresting agency or court).
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.109(692) Fees. All individuals, their attorneys, and other non-criminal justice agencies requesting criminal history information shall be assessed a fee. The department may accept cash, money orders, checks, or credit cards. Other arrangements may be made, such as a prepaid account. The fee for receipt of criminal history information from the department shall be not more than $15 for each name for which information is requested. The fee shall be prominently posted at the headquarters of the division of criminal investigation. Each alias or maiden name submitted shall be considered a separate name for purposes of computing this fee. The employer must pay the cost of the criminal history fee of a potential employee, if the employer requires receipt of criminal history information as a condition of employment.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.110(17A,22,692) Requests for criminal history data.

82.110(1) *Requests for criminal history data.*

a. Persons or agencies requesting criminal history data should direct requests in writing using forms or methods approved by the commissioner of public safety. Forms to use in requesting criminal history information may be requested by mail to the Division of Criminal Investigation, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319;

by electronic mail to cchinfo@dps.state.ia.us; by telephone at (515)725-6066, or from the Web site of the division.

NOTE: The Web site of the division of criminal investigation is www.dps.state.ia.us/dci.

b. The commissioner may authorize additional methods of requesting criminal history information. These other methods may include fax transmission or computer access. Authorization by the commissioner of public safety shall be based on the ability to securely, efficiently and accurately receive and disseminate criminal history information.

82.110(2) *Public complaints.* Public complaints concerning the operation of criminal history or intelligence data systems should be directed in writing to the commissioner of public safety. Complaints should specify clearly the date, time and place of the alleged violation and any action requested of the commissioner.

82.110(3) *Required approvals.* Any agreement, arrangement or system for the transmission and exchange of criminal history data required to be approved by the commissioner shall be submitted in writing at least 30 days before its proposed effective date.

[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.111(690) Administrative sanctions.

82.111(1) The commissioner of public safety may deny or restrict access to criminal history data maintained by the records and identification section of the division of criminal investigation to any agency that fails to comply with the requirements of Iowa Code chapters 690 and 692 for submission of fingerprints and disposition reports to the department of public safety. The commissioner shall notify the affected agency in writing prior to denying or restricting access and shall provide details of the requirements and the nature of the failure to comply.

82.111(2) Any agency that has received notification from the commissioner that the agency's access to criminal history data is to be denied or restricted may protest this action. Protests must be filed with the administrative services division within 30 days of the date of the notification from the commissioner in accordance with rule 661—10.101(17A).

[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.112(692) Criminal history record checks for qualified entities or authorized agencies.

82.112(1) The department of public safety may process requests for national criminal history record checks for a qualified entity or authorized agency.

82.112(2) All qualified entities or authorized agencies requesting criminal history record checks shall be required to pay any applicable state and federal fees associated with noncriminal justice record checks. The qualified entity or authorized agency is responsible for such fees whether the qualified entity requests or receives the information directly or through an agency authorized to make fitness determinations as provided in subrule 82.112(3).

82.112(3) Any public entity which has been duly authorized by statute or administrative rule to conduct fitness determinations of volunteers or employees of a qualified entity may receive state criminal history record checks in order to do so. Any public entity which has been duly authorized by statute to conduct fitness examinations of volunteers or employees, including national criminal history checks, may receive national criminal history record checks in order to conduct such examinations.

82.112(4) A school district considering an applicant for a teaching position is a qualified entity pursuant to Iowa Code section 279.13. A school district may submit a request for a national criminal history record check of an applicant for employment as a teacher. The request shall be submitted on a form designated by the division of criminal investigation and shall be accompanied by completed fingerprint cards for the applicant and the applicable fee. Prior to submitting the request, the district may contact the division of criminal investigation by telephone at (515)725-6066 or by electronic mail at cchinfo@dps.state.ia.us to obtain instructions on the submission or may consult the Web site of the division for such information.

NOTE: The Web site of the division of criminal investigation is www.dps.state.ia.us/dci.

[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.113 to **82.200** Reserved.

DIVISION II
FINGERPRINT RECORDS

661—82.201(17A,690,692) Fingerprint files and crime reports. The department maintains all fingerprint files.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.202(690) Taking of fingerprints. The taking of fingerprints shall be in compliance with Iowa Code sections 232.148(2), 690.2 and 690.4. Fingerprints taken pursuant to these sections shall be submitted to the records and identification section of the division of criminal investigation within two working days, and the department shall submit the fingerprints to the Federal Bureau of Investigation.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

661—82.203 to **82.300** Reserved.

DIVISION III
JUVENILE RECORDS

661—82.301(232) Juvenile fingerprints and criminal histories.

82.301(1) *Authority to fingerprint.* A law enforcement agency shall fingerprint and photograph any juvenile who has been taken into custody and charged with the commission of an offense which would be a serious misdemeanor, aggravated misdemeanor or felony if committed by an adult. Fingerprints of juveniles taken pursuant to this subrule shall be submitted to the division of criminal investigation.

82.301(2) *Fingerprints of juveniles waived to adult court.* If jurisdiction over a juvenile suspect has been transferred from juvenile court to adult court, then fingerprints of that suspect taken pursuant to Iowa Code section 232.148 and transmitted to the division of criminal investigation shall be handled by the division in the same manner as fingerprints of adult suspects are handled, and the fingerprints are subject to the same provisions of law and these rules which govern fingerprints of adult criminal suspects.

82.301(3) *Fingerprints entered into automated fingerprint identification system (AFIS).* Fingerprints of juveniles shall be entered into the AFIS maintained by the department of public safety.

82.301(4) *Juvenile criminal histories.*

a. A fingerprint card received for a juvenile suspect shall be used to establish a criminal history record for the suspect.

b. Criminal histories of juveniles over whom jurisdiction has been transferred from juvenile court to adult court shall be handled in the same manner as criminal histories of adults.

c. Criminal histories of juveniles who remain under the jurisdiction of the juvenile court shall be maintained only if the juvenile is adjudicated delinquent based upon an offense which would be a serious or aggravated misdemeanor or felony if committed by an adult. The criminal history record established in response to the division's receiving a fingerprint card shall be expunged if the delinquency petition is dismissed. Juvenile court judges shall order that a juvenile be fingerprinted and the prints submitted to the division of criminal investigation if the juvenile has been adjudicated delinquent for an offense which would be a serious or aggravated misdemeanor or felony if committed by an adult.

d. Criminal history data of juveniles over whom jurisdiction has not been transferred from juvenile court to adult court shall be expunged when the subject reaches the age of 21 unless the subject has been convicted of a serious or aggravated misdemeanor or a felony when the subject was between the ages of 18 and 21 or unless the retention of the records is necessary for the purpose of administering Iowa Code chapter 692A. If the subject has been convicted of a serious or aggravated misdemeanor or a felony when the subject was between the ages of 18 and 21, the criminal history record shall be maintained in the same manner as adult criminal history data.
[**ARC 8936B**, IAB 7/14/10, effective 9/1/10]

These rules are intended to implement Iowa Code chapters 690, 692, and 692B.

[Filed ARC 8936B (Notice ARC 8769B, IAB 5/19/10), IAB 7/14/10, effective 9/1/10]

CHAPTER 83
IOWA SEX OFFENDER REGISTRY

[Prior to 2/16/05, see 661—8.301 to 8.305]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—83.1(692A) Sex offender registry established. The Iowa sex offender registry, as authorized by Iowa Code chapter 692A, is hereby established in the division of criminal investigation.

661—83.2(692A) Definitions. The following definitions apply to rules 661—83.1(692A) to 661—83.5(692A).

"Aggravated offense" means a conviction for any of the following offenses:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4(1)*"a."*
4. Lascivious acts with a child in violation of Iowa Code section 709.8(1)*"a"* or *"b."*
5. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
6. Burglary in the first degree in violation of Iowa Code section 713.3(1)*"d."*
7. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the commission of the offense.
8. Murder in violation of Iowa Code section 707.2 or 707.3, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
9. Continuous sexual abuse of a child in violation of Iowa Code section 709.23.
10. Any conviction for an offense specified in the laws of another jurisdiction or any conviction for an offense prosecuted in a federal, military, or foreign court that is comparable to an offense listed in paragraphs "1" through "9" shall be considered an aggravated offense for purposes of registering under this chapter.

"Aggravated offense against a minor" means a conviction for any of the following offenses, if such offense was committed against a minor or otherwise involves a minor:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, except for a violation of Iowa Code section 709.4(1)*"b"*(3)(d).
4. Continuous sexual abuse of a child in violation of Iowa Code section 709.23.
5. Any offense specified in the laws of another jurisdiction or prosecuted in a federal, military, or foreign court that is comparable to an offense listed in paragraphs "1" through "4" shall be considered an aggravated offense against a minor if such an offense was committed against a minor or otherwise involves a minor.

"Appearance" means to appear in person at a sheriff's office.

"Business day" means every day except Saturday, Sunday, or any paid holiday for county employees in the applicable county.

"Change" means to add, begin, or terminate.

"Child care facility" means the same as defined in Iowa Code section 237A.1.

"Convicted" means found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction including in a federal, military, tribal, or foreign court, including but not limited to a juvenile who has been adjudicated delinquent but whose juvenile court records have been sealed under Iowa Code section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. "Convicted" includes the conviction of a juvenile prosecuted as an adult. "Convicted" also includes a conviction for an attempt or conspiracy to commit an offense. "Convicted" does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

"Criminal or juvenile justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs

as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

"Department" means the department of public safety.

"Employee" means an offender who is self-employed, employed by another, and includes a person working under contract or acting or serving as a volunteer, regardless of whether the self-employment, employment by another, or volunteerism is performed for compensation.

"Employment" means acting as an employee.

"Foreign court" means a court of a foreign nation that is recognized by the United States Department of State that enforces the right to a fair trial during the period in which a conviction occurred.

"Habitually lives" means living in a place with some regularity, and with reference to where the sex offender actually lives, which could be some place other than a mailing address or primary address but would entail a place where the sex offender lives on an intermittent basis.

"Incarcerated" means to be imprisoned by placing a person in a jail, prison, penitentiary, juvenile facility, or other correctional institution or facility or a place or condition of confinement or forcible restraint regardless of the nature of the institution in which the person serves a sentence for a conviction.

"Internet identifier" means an electronic mail address, instant message address or identifier, or any other designation or moniker used for self-identification during Internet communication or posting, including all designations used for the purpose of routing or self-identification in Internet communications or postings.

"Jurisdiction" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, or a federally recognized Indian tribe.

"Loiter" means remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.

"Military offense" means a sex offense specified by the U.S. Secretary of Defense under 10 U.S.C. Section 951.

"Minor" means a person under 18 years of age.

"Principal residence" for a sex offender means:

1. The residence of the offender, if the offender has only one residence in this state.
2. The residence at which the offender resides, sleeps, or habitually lives for more days per year than another residence in this state, if the offender has more than one residence in this state.
3. The place of employment or attendance as a student, or both, if the sex offender does not have a residence in this state.

"Professional licensing information" means the name or other description, number, if applicable, and issuing authority or agency of any license, certification, or registration required by law to engage in a profession or occupation held by a sex offender who is required at the time of the initial requirement to register under this chapter, or any such license, certification, or registration that was issued to an offender within the five-year period prior to conviction for a sex offense that requires registration under this chapter, or any such license, certification, or registration that is issued to an offender at any time during the duration of the registration requirement.

"Public library" means any library that receives financial support from a city or county pursuant to Iowa Code section 256.69.

"Registrant" means a person who is currently registered with the Iowa sex offender registry.

"Relevant information" means the following information with respect to a sex offender:

1. Criminal history, including warrants, articles, status of parole, probation, or supervised release, date of arrest, date of conviction, and registration status.
2. Date of birth.
3. Passport and immigration documents.
4. Government-issued driver's license or identification card.
5. DNA sample.

6. Educational institutions attended as a student, including the name and address of such institutions.
7. Employment information, including name and address of employer.
8. Fingerprints.
9. Internet identifiers.
10. Names, nicknames, aliases, or ethnic or tribal names, and, if applicable, the real names of an offender protected under 18 U.S.C. Section 3521.
11. Palm prints.
12. Photographs.
13. Physical description, including scars, marks, or tattoos.
14. Professional licensing information.
15. Residence.
16. Social security number.
17. Telephone numbers, including any landline or wireless numbers.
18. Temporary lodging information, including dates when residing in temporary lodging.
19. Statutory citation and text of offense committed that requires registration under this chapter.
20. Vehicle information for a vehicle owned or operated by an offender, including license plate number, registration number, or other identifying number, vehicle description, and the permanent or frequent locations where the vehicle is parked, docked, or otherwise kept.
21. The name, gender, and date of birth of each person residing in the residence.

Exception:

"Relevant information" does not include relevant information in paragraphs "1" and "19," when a sex offender is required to provide relevant information pursuant to this chapter.

"Residence" means each dwelling or other place where a sex offender resides, sleeps, or habitually lives, or will reside, sleep, or habitually live, including a shelter or group home. If a sex offender does not reside, sleep, or habitually live in a fixed place, "residence" means a description of the locations where the offender is stationed regularly, including any mobile or transitory living quarters. "Residence" shall be construed to refer to the places where a sex offender resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the offender declares or characterizes such place as the residence of the offender.

"Sex act" means the same as the term is defined in Iowa Code section 702.17.

"Sex offender" means a person who is required to be registered under Iowa Code chapter 692A.

"Sex offense" means an indictable offense for which a conviction has been entered that is enumerated in Iowa Code section 692A.102 and means any comparable offense for which a conviction has been entered under prior law, or any comparable offense for which a conviction has been entered in a federal, military, or foreign court, or another jurisdiction.

"Sex offense against a minor" means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor or otherwise involves a minor.

"Sexually violent offense" means an offense for which a conviction has been entered for any of the following indictable offenses:

1. Sexual abuse as defined under Iowa Code section 709.1.
2. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
3. Sexual misconduct with offenders and juveniles in violation of Iowa Code section 709.16.
4. Any of the following offenses, if the offense involves sexual abuse or assault with intent to commit sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
5. A criminal offense committed in another jurisdiction, including a conviction in a federal, military, or foreign court, which would constitute an indictable offense under paragraphs "1" through "4" if committed in this state.

"Sexually violent predator" means a sex offender who has been convicted of an offense which would qualify the offender as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. Sections 14071(a)(3)(B), (C), (D), and (E).

"SORNA" means the Sex Offender Registration and Notification Act, which is Title I of the federal Adam Walsh Child Protection and Safety Act of 2006.

"Student" means a sex offender who enrolls in or otherwise receives instruction at an educational institution, including a public or private elementary school, secondary school, trade or professional school, or institution of higher education. "Student" does not mean a sex offender who enrolls in or attends an educational institution as a correspondence student, distance-learning student, or any other form of learning that occurs without the person's physical presence on the real property of an educational institution.

"Superintendent" means the superintendent or superintendent's designee of a public school or the authorities in charge of a nonpublic school.

"Tier I offender" means a registrant who has been convicted of one or more of the offenses enumerated in Iowa Code section 692A.102(1)*"a."*

"Tier II offender" means a registrant who has been convicted of one or more of the offenses identified in Iowa Code section 692A.102(1)*"b"* and is not a "tier I offender."

"Tier III offender" means a registrant who has been convicted of one or more of the offenses enumerated in Iowa Code section 692A.102(1)*"c"* and is not a "tier I offender" or a "tier II offender."

"Vehicle" means a vehicle owned or operated by an offender, including but not limited to a vehicle for personal or work-related use, and including a watercraft or aircraft, that is subject to registration requirements under Iowa Code chapter 321, 328, or 462A.

[**ARC 7974B**, IAB 7/29/09, effective 7/1/09; **ARC 5715C**, IAB 6/16/21, effective 7/21/21]

661—83.3(692A) Forms and procedures. The following forms and procedures are prescribed for use with the Iowa sex offender registry. Supplies of these forms may be obtained by contacting the Iowa sex offender registry at the division of criminal investigation.

83.3(1) *Notification.* Form DCI-144, Notification of Registration Requirement, which notifies offenders of their duty to register with the Iowa sex offender registry, shall be provided, in printed form or electronically, to persons identified as being required to register. Failure to provide offenders with Form DCI-144 does not relieve offenders of their duty to register with the Iowa sex offender registry.

83.3(2) *Registration.*

a. Form DCI-145 or Form DCI-144R, Sex Offender Registration, shall be completed, as required by Iowa Code section 692A.104, on behalf of each offender and submitted, in printed or electronic form, to the sheriff of each county in which the offender will be residing, employed, or attending classes and to the division of criminal investigation, in order to satisfy the registration requirements of the Iowa sex offender registry. This form shall also be completed on behalf of each offender and submitted to the sheriff of any county in which the offender will be a student, be employed, or be engaged in a vocation on a full-time or part-time basis, in order to satisfy the registration requirements.

b. Form DCI-145, or information stored by the division of criminal investigation, shall be used to report changes of residence, telephone number, name of registrant, or change in status as a student, employee, or practicing a vocation at an institution of higher education. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of any county of residence each time the registrant's relevant information changes. A completed copy of Form DCI-145 shall be submitted by the registrant to the sheriff of the county in which the registrant is a student, an employee, or practicing a vocation on a full-time or part-time basis at an institution of higher education within five days of the registrant's becoming a student, an employee, or engaged in a vocation at the institution of higher education. The original of each completed Form DCI-145 shall be forwarded to the division of criminal investigation by the registering agency within three days of receiving the completed form.

(1) If any place of residence of a registrant changes from one county to another, the registrant shall submit copies, in printed or electronic form, of completed Form DCI-145 reporting the change of residence to the sheriff of the prior county of residence and the sheriff of the new county of residence. The sheriff of the new county of residence shall be responsible for transmitting a copy of completed Form DCI-145 to the Iowa sex offender registry.

(2) When the department receives notification that a registrant has changed residence to a location outside of Iowa, the department shall notify the registering state agency in the registrant's new state of residence of the registrant's name, new address, and telephone number. Upon notification of the appropriate

out-of-state agency, the department shall remove the registrant from the active registry, unless the registrant continues to maintain a residence or place of employment in Iowa or attends school in Iowa. The registrant shall not be required to submit periodic verifications of address while not on the active registry. The department shall maintain the registrant's file in the event the registrant establishes a residence in Iowa or becomes a student, an employee, or practices a vocation at an institution of higher education in Iowa in the future. The department may also maintain the file for any other purpose.

c. Upon any submission of Form DCI-145, the form shall be accompanied by current photographs and fingerprints of the offender.

d. A list of all registrants within a county may be provided by the division of criminal investigation to the county sheriff.

83.3(3) *Periodic verification.* A registrant shall appear personally in the office of the sheriff of the county or counties of principal residence periodically as required by Iowa Code section 692A.108 to verify relevant information. A tier I offender shall appear annually, or more frequently if required by the sheriff; a tier II offender shall appear every six months, or more frequently if required by the sheriff; and a tier III offender shall appear every three months, or more frequently if required by the sheriff. Form DCI-146R, Periodic Verification Notification Form, shall be mailed by the division of criminal investigation to each registrant at the last address known to the registry at least 30 days prior to each required appearance. The registrant shall appear between the first and last day of the verification month. Form DCI-146R shall clearly state that it is to be returned to the division of criminal investigation if the addressee no longer resides at the address indicated and that Iowa law prohibits its being forwarded.

a. Each registrant shall report to the sheriff of the county of principal residence of the registrant. The sheriff shall take a current photograph of the registrant and shall submit the photograph to the registry.

b. The sheriff of any county of residence of a registrant may, at any time, instruct the registrant to report to the sheriff's office for the purpose of the taking of a current photograph. Such instructions shall be mailed to the registrant at the registrant's current address of registration. The registrant shall report to the sheriff's office within ten days of receiving such instructions. The sheriff shall submit the current photograph of the registrant to the registry.

83.3(4) *Updating relevant information not requiring personal appearance.* Any change in any item of relevant information other than changes of address, places of attendance as a student, or places of employment shall be communicated to the sheriff of the county of the registrant's principal residence in person, by telephone, or electronically, within five days of the change occurring. Any such change shall not be deemed to be completed until the registrant has received acknowledgment from the office receiving the change in printed or electronic form.

83.3(5) *Application for determination.* Form DCI-148, Application for Determination, shall be completed by a person to initiate a request that the department review whether one or more offenses of which the person has been convicted require registration with the Iowa sex offender registry, whether the time period during which the person is required to register has expired, whether the person is exempt from the placement of information on the sex offender registry website, and the tier placement of the offender. A person who submits a completed copy of Form DCI-148 for review shall provide with it copies of any sentencing or adjudicatory orders related to each offense for which a determination of whether registration is required is being requested. The completed application (Form DCI-148) shall specify the exact grounds for the application and shall include a statement of any additional facts or law which the person intends to present to the department in support of the application. Failure to submit any of the required information shall constitute grounds for denial of the application. If the application sets forth an issue of fact which cannot be evaluated based upon the record of convictions, sentencing and adjudicatory orders, relevant statutory provisions, and other records provided, and is material to the determination, the commissioner may refer the matter to an administrative law judge or presiding officer for a contested case hearing.

NOTE: Filing an application for determination does not excuse a person from having to comply with any of the applicable provisions of Iowa Code chapter 692A during the period prior to the issuance of the decision of determination.

83.3(6) *Decision of determination.*

a. Form DCI-149, Decision of Determination, shall be used by the division of criminal investigation to notify a person who has submitted an application for determination (Form DCI-148) of the results of that review. A completed Form DCI-149 shall be mailed to any person who has filed a completed Form DCI-148 within 90 days of the receipt by the division of criminal investigation of the completed Form DCI-148 and all required supporting documents. A decision of determination shall be signed by the commissioner and shall constitute final agency action for the purposes of Iowa Code chapter 17A.

b. If an administrative law judge or presiding officer has been assigned to hold a hearing regarding an application for determination, the administrative law judge or presiding officer shall prepare a proposed decision of determination. The proposed decision of determination shall be reviewed by the commissioner who may uphold or modify the proposed decision of determination and shall then sign a final decision of determination. The final decision of determination shall constitute final agency action for the purposes of Iowa Code chapter 17A.

83.3(7) *Request for information.* Requests for information about whether a specific individual is registered shall be made to a county sheriff or local police department and may be made in person, by telephone, or in writing.

83.3(8) *Confidential records.* Completed forms filled out pursuant to rules 661—83.1(692A) through 661—83.5(692A) are confidential records that shall not be released to the public.

83.3(9) *Fees.* Each registrant shall pay a fee of $25 to the sheriff of the county in which the registrant maintains a principal residence upon establishment of the principal residence and annually thereafter. If the registrant maintains more than one principal residence simultaneously, the fee shall be paid only to the sheriff of the county in which the registrant first registered on or after July 1, 2009, and continues to register.

[**ARC 7974B**, IAB 7/29/09, effective 7/1/09; **ARC 5715C**, IAB 6/16/21, effective 7/21/21]

661—83.4(692A) Availability of records.

83.4(1) *Release of information to criminal or juvenile justice agencies.* The department may, without restriction, release information regarding any registrant to any criminal or juvenile justice agency, an agency of the state of Iowa, any sex offender registry of another state, or the federal government.

83.4(2) *Sex offender registry website.* The department shall place information regarding each registrant on the registry website (www.iowasexoffender.gov), except that information regarding any registrant for whom the sole basis of registration is a conviction or convictions for a violation or violations of Iowa Code section 709.4(1)*"b"*(3)(d), and whose offense was committed when the offender was under 20 years of age, shall not be placed on the website. Information regarding a registrant placed on the sex offender registry website may include any relevant information allowed under Iowa Code section 692A.121.

83.4(3) *Release of information by a criminal or juvenile justice agency.* A criminal or juvenile justice agency may provide relevant information from the sex offender registry to the following:

a. A criminal or juvenile justice agency, an agency of the state, any sex offender registry of another state, or the federal government.

b. The general public, including public and private agencies, organizations, public places, child care facilities, religious and youth organizations, neighbors, neighborhood associations, community meetings, and employers. Registry information may be distributed to the public through printed materials, visual or audio press releases, radio communications, or a criminal or juvenile justice agency's website.

c. The administrative office of a school district in which the person required to register resides and any private school near the person's residence.

83.4(4) *List of registrants in county.* Any county sheriff shall provide access to the list of all registrants within the county in which the sheriff has jurisdiction to any person who requests such a list; however, records of persons protected under 18 U.S.C. Section 3521 shall not be disclosed.

83.4(5) *Release of information in response to individual request.* A sheriff or police department that receives a request for information about whether a specific individual is registered or not shall inquire of the division of criminal investigation via the Iowa on-line warrants and articles (IOWA) system or the sex offender registry application (SORA) as to whether the person about whom information was requested is registered with the Iowa sex offender registry. If the division of criminal investigation notifies the sheriff or

police department that the person about whom inquiry is made is not on the registry, the sheriff or police department shall so notify the person who submitted the request. If the division of criminal investigation notifies the sheriff or police department that the person about whom inquiry was made is a registrant with the Iowa sex offender registry, the sheriff or police department shall notify the person making the inquiry that the person about whom the inquiry was made is a registrant and may provide the requester with the relevant information allowed under Iowa Code section 692A.121 regarding the registrant.

83.4(6) *Submission of information to the National Sex Offender Registry.* The division shall submit sex offender registry data as required to the National Sex Offender Registry of the Federal Bureau of Investigation.

83.4(7) *Single contact repository.* The division shall perform a search of the sex offender registry for information about an individual, based on a request submitted through the single contact repository established pursuant to Iowa Code section 135C.33. The information provided from the registry shall be limited to whether the identified person is registered.

83.4(8) *No identification of victims.* Any release of information regarding any registrant, other than to criminal or juvenile justice agencies, shall not identify any victim of the registrant.

[**ARC 5715C**, IAB 6/16/21, effective 7/21/21]

661—83.5(692A) Expungement of records.

83.5(1) *Expungement upon reversal of conviction.* Upon receipt of a certified copy of a court order reversing a conviction which forms the basis for a registrant's being required to register, the division of criminal investigation shall expunge the registration, provided that the registrant has been convicted of no other offense requiring registration.

83.5(2) *Expungement upon expiration of registration period.* The division of criminal investigation shall expunge a registrant's registration upon expiration of the period during which the registrant is required to register, provided that the registrant has not subsequently been convicted of an offense that would require registration.

These rules are intended to implement Iowa Code chapter 692A.

[Filed 1/26/05, Notice 9/29/04—published 2/16/05, effective 4/1/05]
[Filed emergency 6/28/05—published 7/20/05, effective 7/1/05]
[Filed 11/3/05, Notice 7/20/05—published 11/23/05, effective 1/1/06]
[Filed Emergency ARC 7974B, IAB 7/29/09, effective 7/1/09]
[Filed ARC 5715C (Notice ARC 5586C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]

CHAPTERS 84 to 86
Reserved

CHAPTER 87
WIRELESS COMMUNICATIONS SERVICE PROVIDER DATABASE

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—87.1(34A) Wireless communications service provider database established. The wireless communications service provider database is established in the department of public safety. All wireless communications service providers authorized to do business in the state of Iowa, or submitting to the jurisdiction of the state of Iowa, shall submit current contact information to the department of public safety in order to facilitate requests from law enforcement agencies and public safety answering points (PSAPs), so that law enforcement agencies and PSAPs can promptly obtain location information concerning a cell phone or other wireless communications device in emergency situations.
[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

661—87.2(34A) Definitions. The following definitions apply to rules 661—87.1(34A) through 661—87.6(34A):

"Department" means the Iowa department of public safety.

"Public safety answering point" or *"PSAP"* means the same as defined in Iowa Code section 34A.2(16).
[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

661—87.3(34A) Administration of database. The database is administered by the division of intelligence within the department. The information in the database shall only be available to law enforcement agencies and PSAPs and only as authorized in Iowa Code section 34A.16 and these rules.
[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

661—87.4(34A) Confidentiality. All information and records in the wireless communications service provider database maintained by the department and all inquiries and results of inquiries to the service providers are confidential records pursuant to Iowa Code section 22.7(5) and chapter 692 and any other applicable federal or state laws or rules.
[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

661—87.5(34A) Database requirements.

87.5(1) A wireless communications service provider shall provide the following information for the database:

a. Company name of the provider;

b. Physical address;

c. Mailing address;

d. Name of the point of contact for the provider;

e. Phone number and alternate phone number for the point of contact, which will be answered 24 hours a day, 7 days a week, by a person or persons who can promptly provide the location information of the cell phone or other wireless communications device upon the request of the department or other law enforcement agency or PSAP;

f. Fax number; and

g. E-mail address.

87.5(2) Each wireless communications service provider shall immediately provide the department with any updates or changes to the information required in 87.5(1). On or before June 15 of each year, each wireless communications service provider shall confirm to the department the provider's information for the database.

87.5(3) The information required in 87.5(1) shall be submitted to the department by at least one of the following:

a. E-mail: intinfo@dps.state.ia.us.

b. Fax: (515)725-6320, Attn: Division of Intelligence, Subject: Wireless Communications Provider contact information.

c. U.S. mail: Iowa Department of Public Safety, Division of Intelligence, Oran Pape Building, 215 East 7th Street, Des Moines, Iowa 50319-0049.

[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

661—87.6(34A) Procedures to request provider information. Upon a determination by a law enforcement agency or PSAP that emergency location information for a subscriber's cell phone or other wireless communications device is required, the law enforcement agency or PSAP shall contact Iowa state patrol communications to request the contact information for the wireless communications systems provider.

[**ARC 2335C**, IAB 1/6/16, effective 2/10/16]

These rules are intended to implement Iowa Code section 34A.16.

[Filed ARC 2335C (Notice ARC 2170C, IAB 9/30/15), IAB 1/6/16, effective 2/10/16]

CHAPTER 88
NOTIFICATION OF LAW ENFORCEMENT AGENCY BY HOSPITAL PRIOR TO DISCHARGE OF A PERSON WITH SERIOUS MENTAL IMPAIRMENT

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—88.1(229) Notification request.

88.1(1) *Scope.* Pursuant to 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352, a hospital or facility is required to notify a law enforcement agency prior to the discharge of a person who was detained and delivered to the hospital by the law enforcement agency because of a serious mental impairment, provided that the law enforcement agency has submitted to the hospital a request for such notification using the form specified in subrule 88.1(2) and that an arrest warrant has been issued for the person or criminal charges are pending against the person.

88.1(2) *Form.* A law enforcement agency requesting notification prior to the discharge from a hospital of a person who was delivered by a law enforcement agency to the hospital because of a serious mental impairment shall submit Form DPS-229, published by the department of public safety, to the hospital with all portions of the form completed as designated in the instructions.

[**ARC 8942B**, IAB 7/28/10, effective 7/1/10]

This rule is intended to implement 2009 Iowa Code Supplement section 229.22 as amended by 2010 Iowa Acts, Senate File 2352.

[Filed Emergency ARC 8942B, IAB 7/28/10, effective 7/1/10]

CHAPTER 89
MISSING PERSONS
[Prior to 11/22/06, see 661—Ch 19]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—89.1 to **89.99** Reserved.

DIVISION I
MISSING PERSON INFORMATION CLEARINGHOUSE

661—89.100(694) Missing person information clearinghouse. The missing person information clearinghouse is established in the division of criminal investigation. The clearinghouse provides a program for compiling, coordinating, and disseminating information, in order to locate missing persons through public awareness and cooperation, and to educate law enforcement officers and the general public about the issues related to missing persons.

661—89.101(694) Administration of missing person information clearinghouse. The division of criminal investigation administers the missing person information clearinghouse, and all questions, comments, or requests for, or submission of, information should be directed to the clearinghouse at the division of criminal investigation. Inquiries by mail should be addressed to: Missing Person Information Clearinghouse, Division of Criminal Investigation, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Inquiries by electronic mail should be addressed to mpicinfo@dps.state.ia.us.
[Editorial change: IAC Supplement 6/17/09]

661—89.102(694) Definitions. The following definitions apply to rules 661—89.100(694) through 661—89.107(694).

"Approved" means having met the criteria set forth by the department of public safety.

"Clearinghouse" means the missing person information clearinghouse in the division of criminal investigation, Iowa department of public safety.

"Commissioner" means the commissioner of the Iowa department of public safety or the commissioner's authorized designee.

"Department" means the Iowa department of public safety.

"Missing person" means an individual having temporary or permanent residence in Iowa, or who is believed to be in Iowa, whose location has not been determined, who has been reported as missing to a law enforcement agency, and who:

1. Is physically or mentally disabled.
2. Is missing under circumstances indicating that the missing person may be in danger.
3. Is missing under circumstances indicating that the missing person's disappearance was not voluntary.
4. Is under the age of 21.

"Missing person report" means a report filed by a law enforcement agency or a private individual with the clearinghouse on a missing person report form.

"Missing person report form" means a form designated by the department of public safety for use by private citizens and law enforcement agencies to report missing person information to the missing person information clearinghouse. Law enforcement agencies may use forms other than the form designated by the department of public safety to submit missing person information to the clearinghouse, provided that all of the information requested on the designated form is provided.

"Prevention and education materials" means those materials that are designed to aid in the prevention of child abduction and to address risks of the exploitation of missing children and that are used in conjunction with a prevention and education program.

"Prevention and education programs" means those programs which have as their primary purpose the prevention of child abduction and of the exploitation of missing children.

"Programs and materials registry" or *"registry"* means a list of prevention and education materials and programs approved by the department.

661—89.103(694) Program information.

89.103(1) A toll-free telephone line (1-800-346-5507) is available 24 hours a day, seven days a week, to collect and disseminate information concerning missing persons in Iowa.

89.103(2) Current information on Iowa missing persons, including photographs when available, is available on the website of the clearinghouse.

89.103(3) After filing a complaint of a missing person with a law enforcement agency, the person filing the complaint may submit information to the clearinghouse on a missing person report form, which may be obtained from the clearinghouse or any law enforcement agency.

89.103(4) After a missing person complaint has been filed with a law enforcement agency, any person may submit information on a missing person report form to the clearinghouse.

661—89.104(694) Prevention and education programs and materials.

89.104(1) The clearinghouse shall maintain a registry of approved prevention and education programs and materials regarding missing and runaway children.

89.104(2) Any person or group wishing to submit prevention and education programs and materials for approval and inclusion in the registry may contact the clearinghouse in order to request information on submitting prevention and education programs and materials for approval.

89.104(3) The clearinghouse shall consider prevention and education programs and materials submitted for approval only upon receipt by the clearinghouse of all specified materials. The person or group submitting prevention and education programs or materials to the clearinghouse shall be notified of approval or rejection of the programs or materials on the registry. No prevention and education programs or materials shall be represented as having been approved by the clearinghouse or the department unless they have been approved and placed on the registry.

89.104(4) The following criteria shall govern approval of education and prevention materials and programs by the department:

a. A prevention or education program must contain all elements deemed necessary to adequately cover the subject matter.

b. Prevention and education programs and materials shall not contain any elements determined to be offensive or pornographic or which sensationalize the problem of missing persons.

c. Prevention and education programs and materials shall meet standards established by the department.

d. Prevention and education programs and materials which have been approved by the National Center for Missing and Exploited Children are deemed to be approved by the department.

89.104(5) Modifications to approved programs or materials shall be submitted to the clearinghouse for review and approval and shall not be represented as approved by the clearinghouse until such approval has been received.

89.104(6) Prevention or education programs or materials may be rejected for inclusion in the registry of approved prevention and education programs and materials if it is determined that materials utilized or content of the program is other than that which was submitted to the clearinghouse for approval, or if it is determined, based on current knowledge, that information provided in prevention and education programs and materials that have been approved previously is outdated or misleading.

89.104(7) Prevention or education programs or materials for which approval has been withdrawn by the clearinghouse shall be removed from the registry. The person or group that submitted the withdrawn program or material for consideration and approval shall be notified, if practicable.

89.104(8) If prevention or education programs or materials submitted to the clearinghouse are rejected for inclusion in the registry, or if the programs or materials previously approved are removed from the registry, the person or group that submitted the programs or materials to the clearinghouse may appeal the rejection or removal to the commissioner within 30 days of the date on which the clearinghouse

notified the person or group of the rejection or withdrawal. A proceeding arising from this rule shall be a contested case and shall be subject to rules 661—10.301(17A) through 661—10.332(17A).

89.104(9) Any individual or group may contact the clearinghouse regarding prevention and education programs and materials to ascertain if a specific program or material is on the registry.

89.104(10) Any individual may file a complaint with the clearinghouse regarding prevention and education programs and materials on the registry. Complaints shall be directed to the clearinghouse in writing.

661—89.105(694) Release of information. Prevention and education materials and program information filed with the clearinghouse for review are open records. Information received by the department that pertains to a missing person, other than criminal investigative data, shall be open records unless deemed confidential pursuant to Iowa Code chapter 22, 692 or 694, or other provision of law.

661—89.106(694) Dissemination.

89.106(1) The clearinghouse shall distribute missing person information that contains the names, photographs, descriptions, and information related to the events surrounding the disappearance of missing persons through publication on the Missing Person Information Clearinghouse website. The law enforcement agency or person to contact if a missing person is located and the names of all located missing persons will be included in the information shown on the website.

NOTE: The website of the missing person information clearinghouse is www.iowaonline.state.ia.us/mpic.

89.106(2) Each week the clearinghouse shall produce, update, and publish public service announcements on the clearinghouse website. A media outlet may request to receive the weekly public service announcement by electronic mail by subscribing to the electronic mail notification service available through the department website.

661—89.107(694) Training. The department shall develop training programs for law enforcement personnel and the general public.

89.107(1) Training for local law enforcement personnel shall include missing person reporting and legal procedures, tracking of missing persons, unidentified bodies, and criteria and procedures for AMBER alerts.

89.107(2) Training for the general public shall include information to assist in the prevention of child exploitation and kidnapping.

These rules are intended to implement Iowa Code section 694.10.

661—89.108 to **89.199** Reserved.

DIVISION II
AMBER ALERT PROGRAM

661—89.200(694) AMBER alert program. The AMBER alert program is a cooperative effort of the department of public safety, the department of transportation, the lottery authority, the Iowa association of broadcasters, the Iowa state association of sheriffs and deputies, local law enforcement agencies, and the national weather service.

661—89.201(694) Criteria. An AMBER alert shall be issued by Iowa state patrol communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of an AMBER alert are met:

1. Law enforcement has confirmed that a person has been abducted, and an entry has been made into the Iowa On-line Articles and Warrants (I.O.W.A.) System identifying the person as missing.
2. The person who has been abducted is under the age of 18.

3. Law enforcement believes the circumstances surrounding the abduction indicate that the child is in danger of serious bodily injury or death.

4. There is enough descriptive information about the child, abductor, or suspect's vehicle to believe that an immediate broadcast alert will help.

The criteria should be interpreted broadly so as to protect the safety of the abducted child and to maintain the integrity of the AMBER alert program and criteria.

661—89.202(694) Activation procedures.

89.202(1) An Iowa AMBER alert shall be issued by Iowa state patrol communications upon receipt of a request from a participating law enforcement agency, provided that the criteria established in rule 661—89.201(694) are met.

89.202(2) In order to initiate an Iowa AMBER alert, a law enforcement agency shall submit by facsimile transmission a completed copy of the "State of Iowa AMBER Alert Notification Plan Facsimile Transmission Packet" to the Des Moines station of Iowa state patrol communications. If transmission to the Des Moines station is not feasible, transmission may be made to the Cedar Rapids station of Iowa state patrol communications.

89.202(3) Upon receipt by Iowa state patrol communications of a completed facsimile transmission packet and if the AMBER alert criteria established in rule 661—89.201(694) are met, an AMBER alert shall be transmitted via the Emergency Alert System (EAS) to Iowa broadcasters.

89.202(4) After initiation of an AMBER alert, additional information may be submitted by the participating law enforcement agency by facsimile transmission, electronic mail, or telephone.

89.202(5) After initiation of an AMBER alert, available information shall be posted on the Iowa AMBER alert website.

NOTE: The website of the Iowa AMBER alert program is at www.iowaamberalert.org.

89.202(6) The communications officer of the Iowa state patrol may direct the issuance of an Iowa AMBER alert, upon receiving a request to do so from another state in which an AMBER alert has been issued, provided that there is evidence that the abductor may be traveling with the abducted child to or through Iowa.

89.202(7) An Iowa AMBER alert shall terminate if the child who was abducted is located or if five hours have elapsed since the initiation of the alert. An alert may be renewed.

89.202(8) If an Iowa AMBER alert is requested and if the circumstances indicate that a person is missing, the information shall be transmitted promptly to the Iowa missing person information clearinghouse.

661—89.203(694) Alternative alert if criteria are not satisfied. If an AMBER alert has been requested and the criteria established in rule 661—89.201(694) are not satisfied, the department may issue a missing person alert or a missing child alert.

These rules are intended to implement Iowa Code chapter 694.

661—89.204 to **89.299** Reserved

DIVISION III
BLUE ALERT PROGRAM

661—89.300(80H) Blue alert program. This chapter implements the Iowa blue alert program as a cooperative effort between the department and local law enforcement agencies to aid in the search for a suspect of a crime involving the death or serious injury of a peace officer in the line of duty or a peace officer who is missing while in the line of duty under circumstances warranting concern for the peace officer's safety.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.301(80H) Definitions. The definitions in Iowa Code section 80H.1 are adopted and incorporated herein. In addition:

"In the line of duty" or *"on duty"* means the peace officer is working within the scope of a peace officer, or there is evidence the death or serious injury of the peace officer or the fact the peace officer is missing is related to the peace officer's actions within the scope of a law enforcement officer.

"Serious injury" means any of the following:

1. Disabling mental illness;
2. Bodily injury which does any of the following:

- Creates a substantial risk of death;
- Causes serious permanent disfigurement; or
- Causes protracted loss or impairment of the function of any bodily member or organ.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.302(80H) Criteria for alert for officer injury or death. A blue alert shall be issued by Iowa state patrol communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of a blue alert are met:

1. A peace officer has suffered death or serious injury in the line of duty;
2. A law enforcement agency believes that the suspect has not been apprehended;
3. A law enforcement agency believes that the suspect may be a serious threat to the public;
4. Sufficient descriptive information is available to disseminate to the public that could assist in locating the suspect.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.303(80H) Criteria for alert for missing officer. A blue alert shall be issued by department communications upon receipt of a request from a law enforcement agency, provided that the following criteria for issuance of a blue alert are met:

1. A peace officer is missing while in the line of duty under circumstances warranting concern for the peace officer's safety;
2. Sufficient descriptive information is available to disseminate to the public that could assist in locating the missing peace officer.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.304(80H) Alternative alert if criteria are not satisfied. If a blue alert has been requested and the criteria established in rules 661—89.302(80H) and 661—89.303(80H) are not satisfied, the department may broadcast identifying information of the suspect, issue a missing person alert, or both.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.305(80H) Activation procedures.

89.305(1) An Iowa blue alert shall be issued by department communications upon receipt of a request from a participating law enforcement agency, provided the criteria established in rules 661—89.302(80H) and 661—89.303(80H) are met.

89.305(2) In order to initiate an Iowa blue alert, a law enforcement agency shall submit by facsimile transmission a completed copy of the "State of Iowa Blue Alert Notification Plan Facsimile Transmission Packet" to the Des Moines station of department communications. If transmission to the Des Moines station is not feasible, transmission may be made to the Cedar Rapids department communications.

89.305(3) Upon establishment of the blue alert criteria established in Iowa Code section 80H.3 and rules 661—89.302(80H) and 661—89.303(80H), the department shall transmit a blue alert through the emergency alert system to Iowa broadcasters.

89.305(4) Upon the transmission of a blue alert, the department shall post the alert on its website, accessible by the public.

NOTE: The website of the department is dps.iowa.gov.

89.305(5) After an initial blue alert transmission, additional information may be submitted by the participating law enforcement agency by facsimile transmission, electronic mail, or telephonic means.

89.305(6) The bureau chief of the department communications bureau may direct the transmission of an Iowa blue alert upon request from another state, provided that there is evidence the suspect may be present in Iowa.

89.305(7) The blue alert transmission may be directed to a specific geographic location within the state if the department communications bureau determines that the nature of the event makes it probable that the suspect or peace officer did not leave a certain geographic location of the state.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.306(80H) Information made public. The department communications bureau shall not release any information about the identity of a peace officer in a case involving the death or serious injury of the peace officer who is the subject of a blue alert.

If a blue alert is issued because a peace officer is missing while on duty, the department communications bureau shall defer to the investigating law enforcement agency about the nature and limits of the officer information to be made public.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

661—89.307(80H) Termination procedures.

89.307(1) A blue alert shall terminate if any of the following occur:

a. The suspect or peace officer is located;

b. The department determines that the blue alert is no longer an effective tool for locating the suspect or peace officer;

c. Five hours have elapsed since the transmission of the blue alert unless otherwise renewed.

89.307(2) Law enforcement agencies shall notify the department immediately upon taking a suspect into custody or upon locating the missing peace officer.

[**ARC 5591C**, IAB 4/21/21, effective 5/26/21]

These rules are intended to implement Iowa Code chapter 80H.

[Filed emergency 6/28/85—published 7/17/85, effective 7/1/85]
[Filed 1/10/86, Notice 7/17/85—published 1/29/86, effective 3/6/86]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed 4/13/90, Notice 12/13/89—published 5/2/90, effective 6/10/90]
[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 1/1/07]
[Editorial change: IAC Supplement 6/17/09]
[Filed ARC 5591C (Notice ARC 5440C, IAB 2/24/21), IAB 4/21/21, effective 5/26/21]

CHAPTER 90
Reserved

CHAPTER 91
WEAPONS AND IOWA PROFESSIONAL PERMITS TO CARRY WEAPONS

[Prior to 5/9/07, see rules 661—4.1(724) to 661—4.12(17A,724)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—91.1(724) Definitions. The following definitions apply to rules in this chapter:

"Addicted to the use of alcohol" means physiological or psychological dependence on the continued use of alcohol, or a maladaptive pattern of alcohol use leading to significant occupational, educational, familial, social, legal, or health-related problems.

Alcohol addiction does not mean nonpathological alcohol use, such as social drinking or occasional or periodic intoxication not accompanied by disruption in social and family relationships, vocational or financial difficulties, or legal problems. Alcohol addiction also does not mean alcohol dependence with sustained full remission, as evidenced by a period of at least 12 months without instances or indicators of alcohol dependence or alcohol abuse. One or more instances of alcohol intoxication alone shall not constitute alcohol addiction, unless accompanied by alcohol dependence or a maladaptive pattern of alcohol use leading to significant occupational, educational, familial, social, legal, or health-related problems.

Any of the following shall create a presumption that a person is addicted to the use of alcohol:

1. Affirmation by the person that the person is addicted to the use of alcohol and has not achieved sustained full remission;
2. Treatment for alcohol dependence, abuse, or addiction within the last 12 months, not including follow-up treatment or attendance at support groups during a period of sustained full remission;
3. A diagnosis of alcohol dependence or alcohol abuse from a properly licensed medical or psychological professional in the past 12 months;
4. Two or more arrests, at least one of which resulted in a conviction, for unlawful use or possession of alcohol or other criminal act committed while under the influence of alcohol in the past 12 months;
5. Three or more arrests, at least one of which resulted in a conviction, for unlawful use or possession of alcohol or other criminal act committed while under the influence of alcohol in the past five years if the most recent arrest occurred in the past 12 months;
6. Disciplinary action taken by any employer or organization for prohibited use or possession of alcohol in the past 12 months;
7. Failure to successfully complete alcohol rehabilitation or treatment in the past 12 months;
8. One or more instances of founded child or dependent adult abuse related to alcohol use in the past five years;
9. A test of the person's breath, blood, urine, or other bodily fluid which indicates that the person has engaged in unlawful acts involving alcohol, provided that the test was administered within the past 12 months; or
10. Documented reports or information from at least two credible sources that evidence a pattern of conduct indicating that the person is currently addicted to the use of alcohol as defined herein.

"Adjudicated as a mental defective" means a determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

1. Is a danger to the person's self or to others; or
2. Lacks the mental capacity to contract or manage the person's own affairs.

The term shall include:

- A finding of insanity by a court in a criminal case; and
- Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

"Annual" means once per calendar year.

"Applicant" means a person who is applying for a permit to carry weapons.

"Approved educator professional permit training" means any training that has satisfied the requirements to provide educational-setting training in Iowa for the purpose of obtaining an Iowa educator professional permit and has been approved by the commissioner.

"Approved training organization" means any firearm training organization that has satisfied the requirements to certify handgun safety training instructors eligible to offer handgun safety training in Iowa for the purpose of obtaining an Iowa permit to carry weapons and has been approved by the commissioner.

"Background check" means an inquiry through the IOWA system to NICS, the IOWA and the National Crime Information Center (NCIC) systems person files and the driver's license file of the applicant as well as other available sources of information to be used to determine eligibility.

"Commissioner" means the commissioner of the Iowa department of public safety or, as applicable, the commissioner's designee.

"Committed to a mental institution" means a formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily either as an inpatient or outpatient. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug or alcohol abuse. The term does not include admission to a mental institution for observation or a voluntary admission to a mental institution.

"Crime punishable by imprisonment for a term exceeding one year" means any federal or state offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of one year. The term shall not include any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices or any state offense classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less. What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction unless such pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, or unless the person is prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

"Educator professional permit" means a permit issued to a school employee pursuant to Iowa Code section 724.6(1)*"a"*(3) as enacted by 2024 Iowa Acts, House File 2586, and as amended by 2024 Iowa Acts, House File 2652, to allow for the concealed carry of a firearm. The permit holder's employer maintains the final authority to determine whether the permit holder may carry a firearm on the employer's grounds. Such a permit is only valid while the permit holder is engaged in the employment stated on the permit.

"Felony" means any crime punishable by imprisonment for a term exceeding one year as defined in this rule or any crime involving a firearm or explosive that is punishable by imprisonment for a term exceeding one year and is classified as a misdemeanor under the laws of this state.

"Firearm training documentation for professional permit" means a photocopy of a certificate of completion or any similar document indicating completion of any firearm training program course; an affidavit from the instructor, school, organization or group that conducted or taught a firearm training program; a copy of or the display of an honorable discharge or general discharge under honorable conditions or Form DD-214 for personnel released or retired from active duty with the armed forces of the United States; or possession of a certificate of completion of basic training with a service record of successful completion of small arms training and qualification for active duty personnel in the armed forces of the United States.

"Firearm training program" means any National Rifle Association handgun safety training course; any handgun safety training course available to the general public utilizing instructors certified by the National Rifle Association, an organization approved by the Iowa department of public safety pursuant to Iowa Code section 724.9A or the Iowa law enforcement academy or another state's department of public safety, state police department, or similar certifying body; any handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or

security enforcement agency approved by the Iowa department of public safety; or completion of small arms training while serving with the armed forces of the United States. Any person or entity seeking approval by the Iowa department of public safety for a handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or security enforcement agency, other than those certified by the National Rifle Association, the Iowa department of public safety, or the Iowa law enforcement academy or courses conducted by instructors certified by the National Rifle Association or the Iowa law enforcement academy, shall submit a detailed description of the course content to the commissioner for review. Any handgun safety training course submitted for review shall be reviewed by the commissioner.

"Identification documentation for an Iowa resident" means any of the following:

1. A driver's license or nonoperator identification card that contains a photograph of the person and that has been issued by the Iowa department of transportation; or

2. A motor vehicle license or nonoperator identification card that contains a photograph of the person and that has been issued by a state other than Iowa and at least one current document indicating Iowa residency, including a residential lease agreement, utility bill, voter registration, tuition receipt for a college or university in Iowa, or other documentation that is acceptable to the officer issuing the permit and that indicates the intent of the person's presence in Iowa is something other than merely transitory in nature; or

3. A document which contains the name, place of residence, date of birth and photograph of the holder issued by or under the authority of the United States, a state or a political subdivision of a state and which is of a type intended or commonly accepted for the purpose of identification of individuals and at least one current document indicating Iowa residency, including a residential lease agreement, utility bill, voter registration, tuition receipt for a college or university in Iowa, or other documentation that is acceptable to the officer issuing the permit and that indicates the intent of the person's presence in Iowa is something other than merely transitory in nature; or

4. A motor vehicle license or nonoperator identification card that contains a photograph of the person and that has been issued by a state other than Iowa and a document indicating that the person is a member of the United States armed forces on active duty and whose permanent duty station is located in Iowa; or

5. A driver's license or nonoperator identification card that contains a photograph of the person and that has been issued by the Iowa department of transportation and an immigration document containing the alien registration number (ARN) of a permanent resident alien or nonimmigrant alien and documentation indicating that the person has resided in the state for at least 90 consecutive days prior to the person's making application. A nonimmigrant alien shall also be required to display a valid hunting license issued in any state, meet the requirements of an exception pursuant to 18 U.S.C. § 922(y)(2), or display a waiver granted by the United States Attorney General.

"Identification documentation for a nonresident" means a motor vehicle license or nonoperator identification card which has been issued by a state other than Iowa and which contains a photograph of the person to whom it was issued.

"Initial familiarization firearm and course of fire training" means a training course of fire with a handgun, which is intended to familiarize, exercise, and improve a person's judgment, reaction, and firearms proficiency under stress when various conditions are present. A variety of scenarios and exercises may be utilized during familiarization course exercises.

"IOWA system" means the Iowa on-line warrants and articles criminal justice information system operated by the Iowa department of public safety for use by law enforcement and criminal justice agencies in the exchange of criminal history and other criminal justice information.

"Misdemeanor crime of domestic violence" means an offense that:

1. Is a misdemeanor under federal or state law; and

2. Has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

"New application" means an application for an Iowa professional permit to carry weapons or an educator professional permit that is filed when the applicant does not currently hold an Iowa permit to carry weapons or an educator professional permit or when the applicant does not file the application at least 30 days prior to the expiration of a currently held Iowa permit to carry weapons.

"NICS" means the National Instant Criminal Background Check System established by the United States Attorney General pursuant to United States Code 18 U.S.C. § 922(t).

"Professional permit to carry weapons" means a permit to carry weapons issued to a person whose employment in a private investigation business or private security business licensed under Iowa Code chapter 80A, or whose employment as a peace officer, correctional officer with the Iowa department of corrections, private security officer, bank messenger or other person transporting property of a value requiring security, or whose employment in police work reasonably justifies that person's going armed. Property of value includes large quantities of cash transported in an armored car, negotiable instruments, gems, other high-value items transported by couriers, and other high-value property that may be vulnerable. Such a permit is valid only while the permitted person is engaged in the employment stated on the permit and while the person is traveling to and from that employment. A professional permit to carry weapons does not include an educator professional permit.

"Qualification course of fire" means a specifically designated course of fire with the firearm the person will carry in the person's capacity as an educator professional permit holder that measures and documents the firearms proficiency level of the person. A pre-established qualifying score determines the proficiency that impacts the educator professional permit holder's authorization to carry the firearm in the course of the person's duties as an educator professional permit holder. The qualification course of fire standards are the standards adopted by the Iowa law enforcement academy for certified law enforcement in-service handgun qualification.

"Qualifying on a firing range for professional permits to carry weapons" means successful completion of a course of live fire on a firing range under the supervision of an instructor certified by the National Rifle Association, the Iowa law enforcement academy, or another state's department of public safety, state police department, or similar certifying body.

"Qualifying on a firing range for educator professional permits" means successful completion of an approved initial familiarization firearm and course of fire training and subsequent quarterly requirements of live fire on a firing range.

"Quarterly" means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

"Renewal application" means an application for an Iowa professional permit to carry weapons filed at least 30 days prior to the expiration of a currently held permit.

"State employee" means a person whose need to go armed arises out of employment by the state of Iowa. "State employee" includes a railroad special agent as described in Iowa Code chapter 80.

"Unlawful user of or addicted to any controlled substance" means a person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person applies for an Iowa permit to carry weapons or seeks to acquire a firearm or receives or possesses a firearm. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year; multiple arrests for such offenses within the past five years if the most recent arrest occurred within the past year; or persons found through a drug test to use a controlled substance unlawfully, provided that the test was administered within the past year. For a current or former member of the armed forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use, e.g., court-martial conviction, nonjudicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11; **ARC 5974C**, IAB 10/20/21, effective 11/24/21; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.2(724) Forms. The following forms, the use of which is required by provisions of this chapter, are provided by the commissioner to Iowa sheriffs:

1. Form WP1. Professional Permit to Carry Weapons.
2. Form WP2. Nonprofessional Permit to Carry Weapons.
3. Form WP3. Application for Annual Permit to Acquire Pistols or Revolvers.
4. Form WP4. Annual Permit to Acquire Pistols or Revolvers.
5. Form WP5. Application for Permit to Carry Weapons.
6. Form WP6. Revocation/Cancellation of Permit to Carry/Permit to Acquire Weapons.
7. Form WP7. Certified Peace Officer Permit to Carry Weapons.
8. Form WP8. Reserve Peace Officer Permit to Carry Weapons.
9. Form WP9. Authorization for Wallet-Size Permit to Carry Weapons, to be generated by the issuing officer including the type of permit, and, at a minimum, the individual identifiers of name and date of birth. A professional permit to carry weapons shall state the nature of employment requiring the holder to go armed.
10. Form WP10. Authorization for Wallet-Size Annual Permit to Acquire Pistols or Revolvers, to be generated by the issuing officer including the type of permit, and, at a minimum, the individual identifiers of name and date of birth, the residence of the permittee, and the effective date of the permit.
11. Form WP11. Nonprofessional Permit to Carry Weapons (issued to an Iowa resident who is serving on active duty in any branch of the United States military and whose permanent duty station is located in a state other than Iowa).
12. Form WP12. Educator Professional Permit.
13. Form WP13. Application for Educator Professional Permit.
14. Form WP14. Notification of Completion of Required Quarterly Training Recruitments for Educator Professional Permit.
15. Form WP15. Application for Approval of Educator Professional Permit Curriculum.
16. Form WP16. Handgun Marksmanship Training Drills.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.3(724) Federal and state prohibitions—permit to carry weapons.

91.3(1) United States Code 18 U.S.C. § 922(g) prohibits the possession of any firearm by any person:

a. Who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; or

b. Who is a fugitive from justice; or

c. Who is an unlawful user of or addicted to any controlled substance; or

d. Who has been adjudicated as a mental defective or who has been committed to a mental institution; or

e. Who, being an alien, is illegally or unlawfully in the United States. Persons lawfully admitted to the United States as immigrant or nonimmigrant aliens must have resided in Iowa for at least 90 continuous days before becoming eligible for an Iowa permit to carry weapons. Additionally, nonimmigrant aliens must display a current valid hunting license issued in any state, meet the requirements of an exception pursuant to 18 U.S.C. § 922(y)(2), or display a waiver granted by the United States Attorney General; or

f. Who has been discharged from the armed forces under dishonorable conditions; or

g. Who, having been a citizen of the United States, has renounced the person's citizenship; or

h. Who is subject to a court order that:

(1) Was issued after a hearing for which such person received actual notice and at which such person had an opportunity to participate;

(2) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person or from engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(3) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

i. Who has been convicted in any court of a misdemeanor crime of domestic violence.

91.3(2) United States Code 18 U.S.C. § 922(n) prohibits the receiving of any firearm by any person:

a. Who is under indictment for a crime punishable by imprisonment for a term exceeding one year.

b. Reserved.

91.3(3) Iowa Code chapter 724 as amended by 2010 Iowa Acts, Senate File 2379, prohibits the issuance of an Iowa professional permit to carry weapons to any person:

a. Who is less than 18 years of age for a private security officer licensed by the Iowa department of public safety, or otherwise who is less than 21 years of age; or

b. Who is addicted to the use of alcohol; or

c. For whom probable cause exists to believe, based upon documented specific actions of the person, where at least one of the actions occurred within two years immediately preceding the date of the permit application, that the person is likely to use a weapon unlawfully or in such other manner as would endanger the person's self or others; or

d. Who has been convicted of a felony in a state or federal court, or who has been adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult; or

e. Who is subject to a court order that:

(1) Was issued after a hearing for which such person received actual notice and at which such person had an opportunity to participate;

(2) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person or from engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(3) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

f. Who has been convicted in any court of a misdemeanor crime of domestic violence; or

g. Who has, within the previous three years, been convicted of any serious or aggravated misdemeanor defined in Iowa Code chapter 708 not involving the use of a firearm or explosive.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11 (Editorial change: IAC Supplement 3/9/11)]

661—91.4(724) Application procedures for an Iowa professional permit to carry weapons.

91.4(1) A nonresident of Iowa or a state employee who is required by employment to go armed may apply to the commissioner for a professional permit to carry weapons. The applicant shall comply with all of the following:

a. Submit a fully and accurately completed and signed application for permit to carry weapons.

b. Submit firearm training documentation for a professional permit. For a new application, training may have occurred at any time prior to the submission of the application. For a renewal application, training must have occurred within the 12-month period prior to the expiration date displayed on the applicant's current permit.

c. Submit the required fee:

(1) $50 for a new application, or

(2) $25 for a renewal application.

d. Display identification documentation as defined in rule 661—91.1(724) or provide a photocopy thereof.

91.4(2) The commissioner will return an incomplete application to the applicant.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.5(724) Issuance or denial of application for permit to carry weapons.

91.5(1) Upon receipt of a completed application for a permit to carry weapons, a professional permit to carry weapons, or an educator professional permit, the commissioner shall conduct a background check to determine that issuance of a permit to the applicant is not prohibited pursuant to rule 661—91.3(724).

91.5(2) Within 30 days, the commissioner shall approve or deny an application submitted pursuant to subrule 91.4(1). The commissioner's failure to act within 30 days of receipt of a complete application shall result in an application's being deemed to have been approved.

91.5(3) A permit issued pursuant to this chapter may be delivered, at the discretion of the applicant, to the applicant by U.S. mail or may be picked up personally by the applicant or a person designated by the applicant.

91.5(4) In the event an application is denied pursuant to this chapter, the commissioner shall issue a written statement of the reasons for the denial.

91.5(5) The commissioner may conduct a background check annually on a person issued a permit to carry weapons pursuant to this chapter but such check shall not include a NICS inquiry.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.6(724) Suspension or revocation of permit to carry weapons.

91.6(1) When the commissioner finds that a person who has been issued a permit to carry weapons has been arrested for a disqualifying offense or is the subject of proceedings that could lead to the person's ineligibility for such permit, the commissioner may immediately suspend the permit.

91.6(2) A permit holder shall be notified immediately of such suspension by personal service or certified mail. The suspension shall become effective upon the permit holder's receipt of such notice. If notified by personal service, the permit shall be surrendered to the person serving such notice for return to the commissioner. If notified by certified mail, the permit holder will be instructed to return the permit to the commissioner.

91.6(3) If the arrest or proceeding does not result in a disqualifying conviction or finding against the permit holder, the commissioner shall immediately reinstate the permit upon proof of the matter's final disposition and shall return the permit to the permit holder.

91.6(4) If the arrest or proceeding results in a disqualifying conviction or finding against the permit holder, the commissioner shall revoke the permit.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11]

661—91.7(724) Appeals.

91.7(1) If the commissioner denies, suspends or revokes a professional permit to carry weapons or an educator professional permit for any reason other than the federal disqualifiers in subrule 91.3(1) or 91.3(2) or the reasons in paragraph 91.3(3)*"e"* or *"f,"* the applicant or permit holder may file an appeal with an administrative law judge by filing a copy of the denial, suspension, or revocation notice with a written statement that clearly states the applicant's reasons rebutting the denial, suspension, or revocation.

91.7(2) If the commissioner denies, suspends or revokes a professional permit to carry weapons solely for one or more of the federal disqualifiers in subrule 91.3(1) or 91.3(2) or the reasons in paragraph 91.3(3)*"e"* or *"f,"* the applicant or permit holder may pursue relief of the NICS determination pursuant to Public Law 103-159.

91.7(3) The outcome of proceedings conducted pursuant to subrule 91.7(2) shall be binding on the commissioner.

[**ARC 9238B**, IAB 11/17/10, effective 1/1/11; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.8(724) Reports and remittance to the state.

91.8(1) Each sheriff shall remit to the commissioner, by the seventh working day of the month that follows the month in which one or more permits to carry a weapon were issued, information about such permits, including the permit holder's name, date of birth, NICS transaction number, type of permit issued and the portion of the fee to be remitted to the department as required by the Iowa Code. The reporting of issued permits to carry a weapon shall be in a format designated for that purpose.

91.8(2) Fees for each reporting period shall be remitted by the sheriff and shall be in the form of a check made payable to Iowa Department of Public Safety.
[**ARC 9238B**, IAB 11/17/10, effective 1/1/11]

661—91.9(724) Offensive weapons as collector's items—method of classification. An offensive weapon, other than a machine gun, shall be classified by the commissioner as a collector's item when the firearm is so defined as a curio or relic in 27 CFR 478.11 as published April 1, 2010, in the Code of Federal Regulations.
[**ARC 9238B**, IAB 11/17/10, effective 1/1/11]

661—91.10(724) Application for approved training organization for permits to carry weapons.

91.10(1) Firearm training organizations seeking approval by the Iowa department of public safety to certify individuals as handgun safety training instructors eligible to offer handgun safety training shall meet the criteria outlined in this rule, such as the years of training experience of the organization's primary point of contact or owner, and shall maintain student records, an active website URL, and the ability of the organization's instructors and primary point of contact or owner to legally possess and carry firearms. A firearm training organization seeking approval shall submit the following:

a. A certificate of existence from the Iowa secretary of state issued within 60 days of application or, if a non-Iowa corporation, a certificate of authority to do business in Iowa.

b. The course syllabi or lesson plans and the goals or objectives for instructor certification courses, which shall show that instructor candidates who successfully complete the courses possess knowledge, competence, and demonstrated proficiency in the area of handgun safety instruction and operation.

c. The course syllabi or lesson plans and the goals or objectives for general student courses, which shall demonstrate that students will receive the basic requirements for a permit to carry a weapon as established by the Iowa department of public safety. The courses shall include:

(1) Instruction in current Iowa laws related to use of deadly force, reasonable force, defense of home, and defense of property;

(2) Instruction in basic handgun safety, safe handling, safe storage, and safe cleaning; and

(3) Instruction in handgun nomenclature and the operation of pistols and revolvers.

d. A copy of the certificate to be issued by the organization to instructors who complete the program.

e. A copy of the résumé and firearm-related training credentials of the individual serving as the organization's primary point of contact or owner, which shall demonstrate a minimum of five years of cumulative experience as a firearm instructor. This experience shall include firearm instructor duties related to military service or firearm instructor certification by the National Rifle Association or by an organization approved by the Iowa department of public safety pursuant to Iowa Code section 724.9A as enacted by 2021 Iowa Acts, House File 756, section 20, or by the Iowa law enforcement academy or another state's department of public safety, state police department, or similar certifying body.

f. A written description of how the organization will maintain instructor records.

g. A written description of how the organization will maintain proficiency of instruction, including staying abreast of statutory changes that may affect what is being taught, and will ensure the instructional practices and integrity of instructors.

h. The URL of a website containing a list of certified instructors or an electronic application that allows users to search and validate instructor credentials.

i. An application processing fee of $500 (the certification of approval is valid for five years).

91.10(2) A firearm training organization seeking to renew its certification of approval must submit:

a. Current lesson plans or course syllabi and course goals or objectives.

b. A certificate of existence from the Iowa secretary of state issued within 60 days of application or, if a non-Iowa corporation, a certificate of authority to do business in Iowa.

c. A copy of the updated credentials of the organization's primary point of contact or owner (submit all documentation demonstrating qualification to provide oversight of firearm training instructors). These credentials must include a minimum of five years of verifiable firearm instructor experience.

d. An application processing fee of $500 (the certification of approval is valid for five years).

91.10(3) The Iowa department of public safety may deny, suspend, or revoke the certification of approval of a firearm training organization if the department has reason to believe that the organization or its primary point of contact or owner has:

a. Become ineligible to possess a firearm under Iowa Code chapter 724 or federal law;

b. Knowingly and willfully provided false information to the department;

c. Provided instruction contrary to the established and approved curriculum; or

d. Failed to meet any portion of the instructor certification guidelines as originally approved.

91.10(4) An applicant for certification as a firearm training organization or a certified firearm permit-to-carry instructor has the same appeal rights as set forth in rule 661—91.7(724).

[**ARC 5974C**, IAB 10/20/21, effective 11/24/21; **ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.11(724) Application procedures for an Iowa educator professional permit.

91.11(1) A person who is an employee of a school district, a private school, or an institution of higher education as defined in Iowa Code section 722.11 may apply to the commissioner for an educator professional permit. The applicant shall comply with all of the following:

a. Submit a fully and accurately completed and signed application for an educator professional permit to carry weapons, including documentation of a firearm safety training course provided in Iowa Code section 724.9(1), or proof of current permit to carry.

b. Submit firearm training documentation from the initial live familiarization firearm and course of fire training. For a new application, training must have occurred within the 12-month period prior to the application.

c. Submit documentation of the training required by Iowa Code section 724.6(1)*"a"*(3) as enacted by 2024 Iowa Acts, House File 2586, and as amended by 2024 Iowa Acts, House File 2652.

d. Submit the required fee of $50 per application.

e. Display identification documentation as defined in rule 661—91.1(724) or provide a photocopy thereof.

f. Authorize communication between the employing school district and the department for purposes of carrying out this chapter. Any correspondence between the school and the department shall not be considered public record.

91.11(2) The commissioner will return an incomplete application to the applicant.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.12(724) Suspension or revocation of an educator professional permit.

91.12(1) When the commissioner finds that a person who has been issued an educator professional permit has been arrested for a disqualifying offense or is the subject of proceedings that could lead to the person's ineligibility for such permit, the commissioner may immediately suspend the permit.

a. If the arrest or proceeding does not result in a disqualifying conviction or finding against the permit holder, the commissioner shall immediately reinstate the educator professional permit upon proof of the matter's final disposition and shall return the permit to the permit holder.

b. If the arrest or proceeding results in a disqualifying conviction or finding against the permit holder, the commissioner shall revoke the permit.

91.12(2) When the commissioner discovers that a person has failed to provide the required annual and quarterly training records in a timely manner, the commissioner will suspend the educator professional permit and may, at the commissioner's discretion, provide the person 30 days to provide the required training documentation. If training documentation is not received after the thirtieth day, the commissioner shall revoke the educator professional permit.

a. If the suspension was for failing to provide training records, and training records indicating training was completed in accordance with Iowa Code section 724.6 as enacted by 2024 Iowa Acts, House File 2586, and as amended by 2024 Iowa Acts, House File 2652, are subsequently provided to the Iowa department of public safety within 30 days after the educator professional permit holder was notified of the suspension, the commissioner will immediately reinstate the educator professional permit and return the permit to the permit holder.

b. If the educator professional permit holder fails to complete the training required under these rules or fails to provide training documentation to the Iowa department of public safety, the commissioner will revoke the permit.

91.12(3) An educator professional permit holder will be notified immediately of such suspension by personal service or certified mail. The suspension becomes effective upon the educator permit holder's receipt of such notice. If notified by personal service, the educator professional permit will be surrendered to the person serving such notice for return to the commissioner. If notified by certified mail, the educator professional permit holder will be instructed to return the permit to the commissioner.

91.12(4) Notification of an educator professional permit suspension or revocation will be provided to the superintendent of the school in which the educator professional permit holder is employed.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.13(724) Approval of required training for educator professional permit. Persons or organizations may provide one or more of the trainings required for an educator professional permit. Persons or organizations seeking approval by the Iowa department of public safety to provide training required by Iowa Code section 279.84(2), 279.84(3), or 724.6(1)*"a"*(3) as enacted by 2024 Iowa Acts, House File 2586, and as amended by 2024 Iowa Acts, House File 2652, will submit the following on department of public safety Form WP15:

91.13(1) The course syllabi or lesson plans and the goals or objectives for student courses as outlined, which demonstrate that students will receive the basic requirements for the required course.

91.13(2) Identification of the person providing the training and sufficient information to determine that the person is competent to provide the training.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.14(724) Educator professional permit training requirements.

91.14(1) To receive an educator professional permit, the applicant must submit proof of successful completion of the following training courses:

a. One-time, in-person legal training as described in rule 661—91.15(724).

b. In-person emergency medical training as described in rule 661—91.16(724).

c. In-person communication training as described in rule 661—91.17(724).

d. In-person live scenario training as described in rule 661—91.18(724).

e. Initial live familiarization firearm and course of fire training as described in rule 661—91.19(724).

91.14(2) To maintain an educator professional permit, the permit holder must submit proof of successful completion of the following annual training courses:

a. Annual in-person emergency medical training as described in rule 661—91.16(724).

b. Annual in-person communication training as described in rule 661—91.17(724).

c. Annual in-person live scenario training as described in rule 661—91.18(724).

91.14(3) To maintain an educator professional permit, in addition to the above requirements, the permit holder must submit proof of successful completion of quarterly live firearm training, including successful completion of the prescribed qualification course.

91.14(4) All trainings shall be submitted to the Iowa department of public safety program services bureau via email at wpinfo@dps.state.ia.us.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.15(724) Curriculum for one-time legal training for an educator professional permit. The one-time, in-person legal training for an educator professional permit shall be at minimum three hours and shall include all of the following information:

1. Parameters and limitations of the educator professional permit, including areas of potential liability, and requirements to maintain the permit.
2. State and federal law regarding legal principles of use of force and use of force generally, including modern principles of continuum of force.
3. State and federal laws regarding qualified immunity.
4. State law regarding the Iowa municipal tort claims Act.

5. Workers' compensation law with regard to school critical incidents.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.16(724) Curriculum for annual emergency medical training for an educator professional permit.

91.16(1) Annual live, in-person emergency medical training for an educator professional permit shall be at minimum three hours and will include all of the following information and practical experience:

a. Cardiopulmonary resuscitation (CPR) and cardiac arrest management, including the use of an automated external defibrillator (AED).

b. Basic knowledge of first aid and trauma care, including casualty assessment, hemorrhage control, and assessment and initial treating of penetrating chest and abdominal wounds.

c. Basic knowledge and skills necessary to stop/slow life-threatening blood loss.

91.16(2) A current certification for CPR and first aid shall satisfy two hours of the required training.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.17(724) Curriculum for annual communication training for an educator professional permit. The annual in-person communication training for an educator professional permit shall be at minimum two hours and shall include all of the following information:

1. De-escalation techniques, crisis intervention techniques, and the applicability and limitations of those techniques.

2. Communication capabilities and coordination, including principles of proper communication to first responders, such as communication of location, condition(s), actions, and needs.

3. Reporting of potential school threats, including to the governor's school safety bureau of the department of public safety and the Safe+Sound app.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.18(724) Curriculum for annual live scenario training for an educator professional permit. The annual in-person live scenario training for an educator professional permit shall be at minimum 12 hours and will include all of the following information and practical experience:

1. Psychology of critical incidents.

2. Tactics of responding to critical incidents in schools.

3. Weapon retention.

4. Scenario-based or simulated training exercises, including both close-quarters and hallway scenarios.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—91.19(724) Curriculum for firearms training for an educator professional permit. In-person firearms training for an educator professional permit shall consist of an initial live familiarization firearm and course of fire training for new educator professional permit applicants and quarterly continued training after the completion of the initial training.

91.19(1) Educator professional permit holders shall meet the minimum level of proficiency as established by Iowa department of public safety rules in the use of any weapon used in the capacity as an educator professional permit holder.

91.19(2) Initial live familiarization firearms and course of fire training, not including the qualification course of fire, will be at minimum 20 hours and will include all of the following:

a. Weapon safety, including but not limited to:

(1) Treating all firearms as if they are loaded,

(2) Pointing the muzzle in a safe direction at all times,

(3) Keeping fingers outside the trigger guard until the person's aim is on target and the person has decided to fire, and

(4) Being sure of the target and what is beyond.

b. Principals of good marksmanship, including but not limited to:

(1) Sight picture,

(2) Trigger squeeze,

(3) Proper stance,
(4) Drawing of the weapon,
(5) Grip of the weapon,
(6) Breathing,
(7) Follow-through, and
(8) Recovery.

c. Dry drills, including but not limited to:
(1) Administrative load,
(2) Combat load,
(3) Tactical load,
(4) Temporary stoppage drill,
(5) Double feed drill, and
(6) Holstering and reholstering.

d. Handgun marksmanship training, including but not limited to the drills prescribed by the Iowa department of public safety on Form WP16.

91.19(3) The qualification course of fire will be completed at the end of the initial live familiarization course and at each subsequent quarterly firearms training. This course must be completed utilizing the firearm that will be used in the person's capacity as an educator professional permit holder. The qualification course consists of the standards adopted by the Iowa law enforcement academy for the certified officer in-service handgun qualification course.

91.19(4) If a person fails to successfully satisfy the qualification course of fire after the second attempt, the person must retake the initial familiarization firearm and course of fire training and attempt the qualification course of fire again. If the person fails to successfully satisfy the qualification course of fire after the remedial training, the person must wait until the following quarter and may attempt again as if the person is a first-time applicant.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

These rules are intended to implement Iowa Code chapter 724 as amended by 2021 Iowa Acts, House File 756.

[Filed 4/13/07, Notice 9/27/06—published 5/9/07, effective 7/1/07]
[Filed ARC 9238B (Notice ARC 9085B, IAB 9/22/10), IAB 11/17/10, effective 1/1/11]
[Editorial change: IAC Supplement 3/9/11]
[Filed ARC 5974C (Notice ARC 5735C, IAB 6/30/21), IAB 10/20/21, effective 11/24/21]
[Filed ARC 8226C (Notice ARC 8141C, IAB 7/24/24), IAB 9/18/24, effective 10/23/24]

CHAPTER 92
Reserved

CHAPTER 93
IDENTIFICATION CARDS FOR FORMER PEACE OFFICERS OF THE IOWA DEPARTMENT OF PUBLIC SAFETY

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—93.1(18USC926C) General provisions. It is the policy of the Iowa department of public safety to provide any qualified former peace officer member of the department with a permanent card that identifies the holder as a qualified former law enforcement officer upon separation from employment as a peace officer with the department. These rules provide a procedure for a qualified former member of the department to apply for a new or duplicate former peace officer identification (ID) card after the person is no longer employed by the department as a peace officer, to complete required annual firearms qualification under auspices of the department and receive a card certifying that such required annual firearms qualification has been completed, and to appeal decisions of the department not to issue a former peace officer identification card or an annual firearms qualification card.
[**ARC 0218C**, IAB 7/25/12, effective 9/1/12]

661—93.2(18USC926C) Definitions. The following definitions apply to rules in this chapter:

"Commissioner" means the commissioner of the Iowa department of public safety.

"Department" means the Iowa department of public safety.

"Duplicate" means a former peace officer identification card issued to replace a lost or destroyed original identification card.

"Former peace officer identification (ID) card" means a photographic identification card issued by the department to a qualified former law enforcement officer with the department.

"Qualified former law enforcement officer" means a person who:

1. Retired or separated in good standing from service with the department as a law enforcement officer; and
2. Was not officially found by a qualified medical professional employed by the department to be unqualified for reasons relating to mental health; and
3. Did not enter into an agreement with the department in which the officer acknowledged that the officer was not qualified for reasons relating to mental health; and
4. Before such retirement or separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and had statutory powers of arrest; and
5. Met one of the following two requirements:

- Before such retirement or separation, was regularly employed as a law enforcement officer for an aggregate of 10 years or more; or
- Retired from service with the department, after completing any applicable probationary period of such service, due to an accidental disability, as determined by the board of directors of the Iowa department of public safety peace officers' retirement, accident, and disability system, pursuant to Iowa Code section 97A.6 and rule 661—401.1(97A).

[**ARC 0218C**, IAB 7/25/12, effective 9/1/12]

661—93.3(18USC926C) Application for former peace officer ID card.

93.3(1) A qualified former law enforcement officer of the department of public safety may apply for a former peace officer identification card prior to retirement or any time after such retirement becomes effective.

93.3(2) Application shall be made on a form available from the office of the commissioner.

93.3(3) The completed application form may be submitted to the Iowa Department of Public Safety, Office of the Commissioner, 215 East 7th Street, Des Moines, Iowa 50319.

93.3(4) Upon receipt of a completed application, the department shall verify that the applicant met the requirements for issuance of a former peace officer identification card at the time of separation from employment with the department.

93.3(5) If the applicant met all of the requirements for a qualified former law enforcement officer at the time of separation from employment as a peace officer with the department, the application shall be approved, unless the commissioner is aware of information that would disqualify the applicant which arose from conduct or circumstances which occurred after the time of separation. Issuance of a former peace officer identification card by the department implies no warranty of the continuing eligibility of the former peace officer to carry a concealed weapon pursuant to 18 U.S.C. §926C.

93.3(6) If the applicant did not meet all of the requirements for a qualified former law enforcement officer at the time of separation from employment as a peace officer with the department or if the commissioner is aware of information that would disqualify the applicant based on conduct or circumstances which occurred after separation from the department, then the application shall be denied and the applicant shall be notified of the denial.

93.3(7) The commissioner shall notify an approved applicant and shall provide instructions for completion of the issuance process. Such instructions may include a requirement for the applicant to be present at a time and location designated by the department to be photographed for the identification card.

93.3(8) Issuance of an initial former peace officer identification card shall be at no charge to the qualified former law enforcement officer.

93.3(9) If a qualified former peace officer of the department loses an identification card, or if a card is damaged, a replacement may be issued. The former officer shall notify the office of the commissioner of the loss or damage and may apply for a replacement card.

[**ARC 0218C**, IAB 7/25/12, effective 9/1/12; **ARC 4801C**, IAB 12/4/19, effective 1/8/20]

661—93.4(18USC926C) Annual firearms qualification—certification card.

93.4(1) Qualified former law enforcement officers with the department of public safety may participate in annual firearms qualification offered by the department and, upon successful completion of the annual firearms qualification, receive proof thereof from the department. A card certifying successful completion of the annual qualification and specifying the date of the qualification shall be issued by the firearms instructor conducting the qualification on behalf of the department to each qualified former law enforcement officer who has successfully completed the qualification. A card certifying successful completion of the qualification shall be issued by department personnel only to a qualified former law enforcement officer with the department who successfully completes the annual firearms qualification under the auspices of the department. Participation in annual firearms qualification offered by the department is restricted to qualified former law enforcement officers with the department who are residents of the state of Iowa at the time of the qualification.

NOTE: Any qualified former law enforcement officer with the department may participate in annual firearms qualification offered by a certified firearms instructor other than under the auspices of the department. A card to certify proof of successful completion of annual firearms qualification may be issued only by the firearms instructor who conducts the qualification.

93.4(2) Annual firearms qualification shall be offered periodically and at various locations in the state to qualified retired and former officers of the department who reside in Iowa. All qualified former law enforcement officers with the department who have provided a current active email address to the department shall be notified by email when firearms qualification or firearms familiarization training is being offered to current peace officer members of the department of public safety. While the department will make a good-faith effort to notify all qualified and former peace officer members of the department who reside in Iowa of the availability of such training, it is the responsibility of each qualified former peace officer member of the department to inquire about such training if the qualified former peace officer wishes to use the qualification or training to obtain the annual certification of firearms qualification required under 18 U.S.C. §926C.

93.4(3) A qualified former law enforcement officer with the department who resides in Iowa shall be offered the opportunity to participate in annual firearms qualification at no cost to the qualified former officer, except that any former officer of the department who participates in annual firearms qualification offered under the auspices of the department shall supply any firearm, ammunition, or equipment required to be used in the qualification.

93.4(4) A qualified former law enforcement officer with the department residing in Iowa who plans to participate in firearms qualification or firearms familiarization training offered by the department should inquire via email to the department prior to the qualification or training as to what information and material the qualified former peace officer is required to provide at the training, and the department will provide notification of this information via return email. An application form for an annual firearms qualification shall be provided electronically to the qualified former peace officer member as an attachment to the email. The qualified former peace officer member shall complete the application form and submit it to the instructor prior to the start of the qualification or training.

93.4(5) An instructor supervising annual qualification or training on behalf of the department shall refuse to admit a former law enforcement officer with the department to the qualification session or training if the former law enforcement officer with the department is not a resident of the state of Iowa at the time of qualification or the instructor knows that the former law enforcement officer with the department does not meet the requirements for possession of a firearm under state or federal law or is otherwise unable to meet the requirements to be a qualified former law enforcement officer under the provisions of 18 U.S.C. §926C. An instructor may refuse to admit any qualified former law enforcement officer with the department to an annual firearms qualification if, in the judgment of the instructor, participation in the session by the qualified former law enforcement officer would be unsafe.

93.4(6) If the qualified former law enforcement officer with the department satisfies the requirements for annual firearms qualification, the instructor shall complete and issue to the qualified former law enforcement officer an annual firearms qualification certification card on a form provided by the department. If the former law enforcement officer with the department fails to attain a qualifying score, the instructor shall so notify the former law enforcement officer with the department.

[**ARC 0218C**, IAB 7/25/12, effective 9/1/12]

661—93.5(17A) Appeals. Any action taken by the department that adversely affects the applicant may be appealed through the process delineated in 661—Chapter 10.

[**ARC 0218C**, IAB 7/25/12, effective 9/1/12]

These rules are intended to implement 18 U.S.C. §926C.

[Filed ARC 0218C (Notice ARC 9988B, IAB 2/8/12), IAB 7/25/12, effective 9/1/12]

[Filed ARC 4801C (Notice ARC 4549C, IAB 7/17/19), IAB 12/4/19, effective 1/8/20]

CHAPTER 94
Reserved

CHAPTER 95
DISPOSITION OF SEIZED AND FORFEITED WEAPONS AND AMMUNITION

[Prior to 5/9/07, see rules 661—4.51(809A) to 661—4.59(809A)]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—95.1(809,809A) Definitions. The following definitions apply to rules in this chapter:

"Ammunition reference file" means the physical collection of ammunition received, collected and maintained by the division of criminal investigation criminalistics laboratory for testing and evaluation purposes.

"Firearms inventory" means a listing of firearms received, collected, maintained, and disposed of by the division of criminal investigation criminalistics laboratory and of transactions regarding firearms completed by the laboratory. Firearms in the temporary custody of the laboratory for evidentiary examination are not included in the firearms inventory.

"Firearms reference file" means the physical collection of firearms received, collected and maintained by the division of criminal investigation criminalistics laboratory for comparison and identification purposes.

"Law enforcement purpose" means use by a peace officer in the execution of the officer's duties or use in training of peace officers or training offered by law enforcement agencies to peace officers or other persons.

661—95.2(809,809A) Ammunition and firearms. The division of criminal investigation criminalistics laboratory shall examine and evaluate all firearms and ammunition submitted to the laboratory pursuant to Iowa Code section 809A.17. All firearms submitted to the laboratory shall be evaluated and disposed of as provided in Iowa Code sections 809.21 and 809A.17 and these rules. Any ammunition submitted to the laboratory may be entered into the laboratory's ammunition reference file and may be utilized by the laboratory for testing and evaluation purposes.

661—95.3(809,809A) Firearms inventory. There is established a continuous firearms inventory in the division of criminal investigation criminalistics laboratory. All firearms transactions covered by any of the provisions noted herein, other than receipts and returns of weapons for evidentiary examination, shall be recorded as and made a part of the continuous firearms inventory. Each individual entry in the inventory shall be maintained for a period of no less than 20 years. Inventory entries which refer to firearms retained in the firearms reference file shall be maintained permanently.

661—95.4(809,809A) Deposit of firearms in the firearms reference file. There is established a division of criminal investigation criminalistics laboratory firearms reference file. Firearms submitted to the laboratory, other than firearms submitted solely for evidentiary examination, shall be evaluated as to their possible worth for testing and evaluation purposes. Any firearms deemed useful for such purposes shall be deposited in the firearms reference file.

661—95.5(809,809A) Disposition of firearms (interstate). Any firearm in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which is not entered into the firearms reference file pursuant to the provisions of rule 661—95.4(809,809A) and which the commissioner of public safety deems appropriate for distribution to other crime laboratories may be offered to them.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—95.6(809A) Transfer of rifles and shotguns to the department of natural resources. Any rifle or shotgun in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which is not entered in the firearms reference file pursuant to rule 661—95.4(809,809A) or distributed to another crime laboratory pursuant to rule 661—95.5(809,809A) may be transferred to the Iowa department of natural resources for disposition pursuant to the rules of that department.

661—95.7(809,809A) Disposition of firearms (intrastate). Any firearm not entered in the firearms reference file pursuant to rule 661—95.4(809,809A) and still in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17, subsequent to the procedures set out in rules 661—95.5(809,809A) and 661—95.6(809A), shall be evaluated for usefulness to Iowa law enforcement agencies. Any firearm which is deemed suitable for law enforcement purposes may be distributed to an Iowa law enforcement agency which has made a request for such firearm. This distribution shall be made in accordance with the reasonable needs of the requesting agency as determined by the commissioner of public safety. Any firearm received by a law enforcement agency pursuant to this rule is for the internal use of the receiving agency and may not be resold or otherwise distributed outside of the receiving agency, other than to be returned to the division of criminal investigation criminalistics laboratory.

661—95.8(809,809A) Final disposition and destruction of firearms. All firearms in the possession of the division of criminal investigation criminalistics laboratory pursuant to Iowa Code section 809A.17 which are not disposed of by the procedures provided in rules 661—95.2(809,809A) through 661—95.7(809,809A) shall be destroyed. Destruction shall be accomplished by grinding and chopping at a scrap metal facility or meltdown at a suitable foundry operation. All destruction shall be supervised and conducted by the staff of the division of criminal investigation criminalistics laboratory. Documentation of the destruction of the firearms shall be made in the firearms inventory.

661—95.9(809,809A) Claims. Any disputed claim of ownership or right of possession of a firearm or of ammunition subject to rules 661—95.1(809,809A) through 661—95.8(809,809A) shall be adjudicated in accordance with the procedures regarding contested cases set forth in 661—Chapter 10.

661—95.10(809,809A) Disposition of explosives. Any law enforcement agency in possession of forfeited explosives shall contact the arson and explosives bureau of the fire marshal division for instructions and shall follow the instructions received from the fire marshal division for the disposition of the forfeited explosives.

661—95.11(809,809A) Disposition of weapons other than firearms and explosives. Any law enforcement agency in the possession of a forfeited weapon other than a firearm, ammunition, or explosives may contact the division of criminal investigation criminalistics laboratory for instructions regarding the disposition of the forfeited weapons.

These rules are intended to implement Iowa Code sections 809.21 and 809A.17.

[Filed 4/13/07, Notice 9/27/06—published 5/9/07, effective 7/1/07]

[Filed ARC 0219C (Notice ARC 0098C, IAB 4/18/12), IAB 7/25/12, effective 9/1/12]

CHAPTERS 96 to 120
Reserved

CHAPTER 121
BAIL ENFORCEMENT, PRIVATE INVESTIGATION, AND PRIVATE SECURITY BUSINESSES

[Prior to 4/20/88, see Public Safety Department [680] Ch 2]
[Prior to 11/23/05, see 661—Ch 2]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—121.1(80A) Licensing. The administrative services division shall administer the bail enforcement, private investigation and private security statute. Any questions, comments, information, requests for information, or application for a license or an identification card should be directed to the Program Services Bureau, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or, with the exception of applications, by electronic mail via the Internet to piinfo@dps.state.ia.us.
[Editorial change: IAC Supplement 6/17/09]

661—121.2(80A) Definitions. As used in this chapter unless the context otherwise requires:

"Aggravated misdemeanor" means an offense so defined in the Iowa Code or an offense committed in another jurisdiction with a penalty of imprisonment for two years or more.

"Applicant" means any person applying to the commissioner for a license or a permanent identification card.

"Background investigation" means the actions taken by the department to verify that the applicant for a license or employee identification card meets the requirements. Such actions include, but are not limited to, inquiries to the Iowa on-line warrants and articles (IOWA) criminal justice information system for outstanding arrest warrants, active protection orders, sex offender registry records and Iowa criminal history records. A background investigation shall also include the submission of fingerprints of the applicant to the FBI for a nationwide criminal history record check.

"Bail enforcement agent" means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.

"Bail enforcement business" means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to ensure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or law enforcement officer in the course of the officer's official duties.

"Chief law enforcement officer" means the county sheriff, or the sheriff's designee, in the county where the defendant is located, or the chief of police, or the chief's designee, when the defendant is located within the city limits of a city or town which has a police force.

"Commissioner" means the commissioner of the department of public safety or the commissioner's authorized designee.

"Conviction resulting from domestic abuse" means a conviction at any level in any jurisdiction if the conviction has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. Applicable convictions may include, but are not limited to, crimes of assault, domestic assault, domestic abuse assault, battery, disorderly conduct and other crimes meeting this definition.

"Defendant" means the principal on a bail bond issued or deposit filed in relation to a criminal proceeding in order to ensure the presence of the defendant at trial.

"Department" means the department of public safety.

"Duplicate license" means a license that is issued to substitute for a license that has been lost or destroyed, except that a "duplicate license" shall not mean a "replacement license" as defined herein.

"Felony" means an offense defined as a felony by the jurisdiction in which the offense was committed.

"Licensee" means a person licensed under this chapter.

"Moral turpitude" is an act of baseness, vileness, or depravity or conduct which is contrary to justice, honesty, or good morals. Examples of moral turpitude may include, but are not limited to, the following:

1. Any act or pattern of conduct involving dishonesty, fraud, or deception;
2. Any act of conducting a bail enforcement, private investigative or private security business in violation of Iowa Code chapter 80A, whether in Iowa or another jurisdiction, or a determination from another jurisdiction that the individual or entity has violated the bail enforcement, private investigative, or private security laws, rules, or regulations of that jurisdiction;
3. Any act or pattern of conduct of harassment or stalking;
4. Any criminal act of sexual misconduct;
5. Any illegal act of selling, delivery, possession with intent to deliver, or manufacturing drugs;
6. Conviction resulting from domestic abuse.

"Peace officer" means any such individual as designated by Iowa Code section 801.4, subsection 11.

"Person" means an individual, partnership, corporation, or other business entity.

"Private investigation business" means the business of making, for hire or reward, an investigation for the purpose of obtaining information on any of the following matters:

1. Crimes or wrongs which are committed or threatened.
2. The habits, conduct, movements, whereabouts, associations, transactions, reputation, or character of a person.
3. The credibility of witnesses or other persons.
4. The location or recovery of lost or stolen property.
5. The cause or origin of or responsibility for fires, accidents, or injuries to property.
6. The truth or falsity of a statement or representation.
7. The detection of deception.
8. The securing of evidence to be used before authorized investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases.
9. The locating of owners or heirs of unclaimed funds.

"Private investigative agency" means a person engaged in a private investigation business.

"Private school security officer" means the same as described in Iowa Code section 279.84 as enacted by 2024 Iowa Acts, House File 2586, and as amended by 2024 Iowa Acts, House File 2652.

"Private security agency" means a person engaged in a private security business.

"Private security business" means a business of furnishing, for hire or reward, guards, watch personnel, armored car personnel, patrol personnel, or other persons to protect persons or property, to prevent the unlawful taking of goods and merchandise, or to prevent the misappropriation or concealment of goods, merchandise, money, securities, or other valuable documents or papers, and includes an individual who for hire patrols, watches, or guards a residential, industrial, or business property or district.

"Proof of financial responsibility" means proof of the ability of a licensee to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof, arising out of ownership and operation of a bail enforcement business, private security business or a private investigation business.

"Replacement license" means a license that is issued to substitute for a license that has been lost or destroyed as a result of damage from flooding, storms or other conditions which form a basis for issuance of a disaster emergency proclamation by the governor pursuant to Iowa Code section 29C.6.

"Reserve peace officer" means a volunteer, nonregular, sworn member of a law enforcement agency who serves under the direction of regular peace officers with or without compensation, has regular police powers while functioning as a law enforcement agency's representative, and participates on a regular basis in the law enforcement agency's activities including crime prevention and control, preservation of the peace, and enforcement of law.

"Uniform" means a manner of dress which is of a particular style and distinctive appearance as distinguished from ordinary clothing customarily used and worn by the general public and which clearly identifies the person as an employee of a licensed agency.

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

661—121.3(80A) Persons exempt. This chapter does not apply to the following:

121.3(1) An officer or employee of the United States, or a state, or a political subdivision of the United States or of a state while the officer or employee is engaged in the performance of official duties or an employee of a contractor or subcontractor with a federal agency while performing duties pursuant to a contract with the federal agency.

121.3(2) A peace officer engaged in the private security business or the private investigation business with the knowledge and consent of the chief executive officer of the peace officer's law enforcement agency.

121.3(3) A person employed full- or part-time exclusively by one employer in connection with the affairs of the employer.

121.3(4) An attorney licensed to practice in Iowa, while performing duties as an attorney.

121.3(5) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons.

121.3(6) A person exclusively employed in making investigations and adjustments for insurance companies. This exemption does not apply to persons who contract with a third party, such as an attorney or a broker, to conduct investigations on behalf of insurance companies. However, this exemption does apply to independent contractors who contract directly with insurance companies and exclusively conduct insurance investigative work.

121.3(7) A person who is the legal owner of personal property which has been sold under a security agreement, or a conditional sales agreement, or a secured party under the terms of a security interest while the person is performing acts relating to the repossession of the property.

121.3(8) A person engaged in the process of verifying the credentials of physicians and allied health professionals applying for hospital staff privileges.

121.3(9) A person engaged in the business of retrieval and dissemination of public record information.

121.3(10) A person engaged in the business of process service in either a criminal or civil action, where the determination of the whereabouts of the person is only incidental to the service of process.

121.3(11) The business of repossession or recovery of property, including debt collection, where the determination of the whereabouts of the person is only incidental to the repossession or collection.

121.3(12) A person engaged in the business of genealogical research.

121.3(13) A person who sells, installs, maintains, repairs or monitors burglar alarm systems at protected premises or premises to be protected.

121.3(14) Iowa Code sections 80A.2, 80A.4(1)*"b,"* and 80A.4(3) address the ability of peace officers to operate as private investigators and private security guards. The department interprets these three references, when read in concert, to mean the following:

a. An individual peace officer may conduct private investigation business or private security business with permission of the officer's chief executive, without securing either a state license or identification card.

b. Two or more peace officers may form a partnership to conduct private investigation business or private security business without securing either a state license or identification card. The partnership, association, or business may employ other peace officers to conduct investigation or security functions; however, the chief executive of each partner, association member, owner, or employee must give permission to engage in the business.

c. A partnership owned and operated by peace officers may not employ nonpeace officers to perform investigation or security functions.

d. An agency licensed by the department may not have any peace officers involved in the ownership or management of the agency.

e. An agency licensed by the department may not employ a peace officer to do investigative or security functions.

f. No corporation in the private security or private investigation business is exempt from the license or identification card requirement or limitations on the employment of peace officers.

121.3(15) A person engaged in the business of transporting prisoners under a contract with the Iowa department of corrections or a county sheriff, a similar agency from another state, or the federal government.

121.3(16) A person engaged exclusively in the business of providing courier service and who does not wear the uniform or use a marked motor vehicle of a licensed private security agency.

661—121.4(80A) Licenses. Each person who engages in the operation of a bail enforcement, private investigation, or private security business in this state shall be licensed prior to such activity. Each business requires a separate license. For a license to be valid, the business shall have at least one current valid licensee who is a director, officer, partner or person who is involved in the business in Iowa.

121.4(1) *Application for licenses—generally.* Anyone who wishes to be considered for a bail enforcement, private investigative or private security license should contact the program services bureau as indicated in rule 661—121.1(80A) and request application information.

121.4(2) *Jurisdiction.* Any private investigative, private security, or bail enforcement business shall be licensed in Iowa if it is conducting business in Iowa. The department will consider the following factors when determining jurisdiction:

a. Whether the private investigative, private security, or bail enforcement business has an office or place of business in Iowa, is organized in Iowa, or conducts business in Iowa.

b. Whether services are provided to a client who resides in Iowa, is organized in Iowa, has an office or place of business in Iowa, provided that some of the services are conducted in Iowa.

c. Types of activities that are viewed as demonstrating jurisdiction in Iowa include, but are not limited to, the following:

(1) A private investigation business conducts an investigation that occurs entirely or partially in Iowa.

(2) A private investigation business investigates a criminal, civil, or administrative case that originates or is filed in Iowa.

(3) A private security business conducts security at any location in Iowa.

(4) A bail enforcement business takes into custody, or attempts to take into custody, a defendant in an Iowa criminal case.

(5) A business provides bodyguard service to a person who resides in or regularly does business in Iowa.

(6) A business provides armored car service to a client who resides in or does business in Iowa, if part of the services are conducted in Iowa.

d. Types of activities that are not, by themselves, viewed as demonstrating jurisdiction in Iowa include, but are not limited to, the following:

(1) A non-Iowa-based private investigation business works on a criminal, civil, or administrative case that originates and is filed in another state, but that contains some investigative elements in Iowa.

(2) A non-Iowa-based business provides bodyguard service to a client who does not reside in Iowa and only occasionally does business in Iowa.

(3) A bail enforcement business takes into custody, or attempts to take into custody, a defendant in a criminal case filed in another state.

e. The fact that a business uses the Internet to retrieve public record information from Iowa databases does not, absent other factors, establish jurisdiction in Iowa.

121.4(3) *Forms.* An applicant for a license or identification card shall execute forms provided by the department. These forms must be submitted to the commissioner and will not be processed unless complete. The forms used in the administration of this chapter are as follows:

a. Application for Bail Enforcement Agency License, Private Investigative Agency License and/or Private Security Agency License, Form #PD1.

b. Identification Card Application for: Private Investigator/Private Security Guard/Bail Enforcement Agent, Form #PD2.

c. Application for License Renewal, Form #PD3.

d. FBI Fingerprint Card, Form #FD–258.

e. Limited Liability Company, Form #PD5.

f. License Surety Bond, Form #PD6.

g. Corporate Information, Form #PD7.

h. Identification Card, Form #PD8.

121.4(4) *Application requirements.* An applicant for a license as a bail enforcement agency, private investigative agency or private security agency must submit the following to complete the application process:

a. A completed Application for Bail Enforcement Agency License, Private Investigative Agency License and/or Private Security Agency License (Form #PD1) for each individual.

With respect to an applicant who is a corporation, Form #PD1 must be completed by each officer or director who is actively involved in the licensed business in Iowa.

With respect to an applicant who is a partnership or association, Form #PD1 must be completed by each partner or association member.

b. Two completed Fingerprint Cards (Form #FD–258) and the associated processing fees for each individual identified in paragraph *"a"* of this subrule.

c. A completed surety bond form (Form #PD6) issued by a surety company authorized to do business in this state.

d. If the applicant is a corporation, a completed Corporate Information form (Form #PD7).

e. Two 1″ × 1″ color photographs of the head and shoulders of each individual identified in paragraph *"a"* of this subrule, taken not more than one year prior to application.

f. A fee of $100 for each agency license requested, plus $10 for each application form for an employee identification card (Form #PD2) requested pursuant to this subrule.

g. Proof of financial responsibility.

h. Pictures, photocopies or physical descriptions of all uniforms, hats, badges, and insignia to be used by the private security agency.

121.4(5) *Abandonment of applications.* If an applicant for an agency license fails to complete the application within six months after it has been filed, the application shall be deemed abandoned. Any application submitted subsequent to the abandonment of a former application shall be treated as a new application, and must be filed in accordance with subrule 121.4(4).

121.4(6) *Proof of financial responsibility.* Proof of financial responsibility shall be given by filing a certificate of insurance from a licensed insurance company demonstrating coverage for general liability, completed operations and personal injury. Personal injury insurance shall include coverage for the following groups of offenses:

a. False arrest, detention, or imprisonment, or malicious prosecution.

b. Libel, slander, defamation or violation of rights of privacy.

c. Wrongful entry or eviction or other invasion of rights of private occupancy.

The certificate shall provide that the insurance shall not be modified or canceled unless 30 days' prior notice is given to the department. Licensees shall have no more than 30 days following any specified expiration dates to comply with insurance requirements. The license shall be automatically revoked if the licensee has not complied with the certificate of insurance requirement within the 30 days.

Exception:

Current licensees who have provided proof of financial responsibility by filing an irrevocable letter of credit as of May 1, 2003, shall be allowed to continue using that means of providing proof of financial responsibility as long as their license remains continuously valid or until such proof is replaced by liability insurance. Licensees who provide proof of financial responsibility pursuant to this exception shall continue to meet the applicable requirements established in subrule 121.4(5) prior to May 1, 2003.

121.4(7) *Mandatory examinee.* Rescinded IAB 5/25/05, effective 5/1/05.

121.4(8) *Application for examination.* Rescinded IAB 5/25/05, effective 5/1/05.

121.4(9) *Time and place of examination.* Rescinded IAB 5/25/05, effective 5/1/05.

121.4(10) *Reexaminations.* Rescinded IAB 5/25/05, effective 5/1/05.

661—121.5(80A) License requirements. In order to be considered for a license, the applicant must undergo a background investigation by the department and must meet the following standards:

121.5(1) Be at least 18 years old;

121.5(2) Not be a peace officer (except a reserve peace officer);

121.5(3) Never have been convicted of a felony or aggravated misdemeanor;

121.5(4) Not be an abuser of alcohol or a controlled substance;

121.5(5) Not have a history of repeated acts of violence;

121.5(6) Be of good moral character. Consideration of whether an applicant is of good moral character includes but is not limited to:

a. Any of the applicant's references indicating the applicant is not of good moral character;

b. The sheriff of the county of residence or business or the police chief of the city of residence or business so indicating in writing;

c. The applicant's failing to discharge just obligations;

d. The applicant's writing a check on an account with knowledge that there are insufficient funds to cover it;

e. The applicant's failing to pay employees wages legally due the employees;

f. The applicant's knowingly obstructing justice or interfering in the lawful duties of a peace officer or with any official investigation;

g. Unless rendered confidential by law, the applicant's failing to report:

(1) A serious crime, or

(2) The location of any stolen property;

h. The applicant's committing an act which involves moral turpitude, whether or not a criminal conviction occurred.

i. The applicant's being subject to any court order that restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, and includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child, or explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

j. The applicant's being a registered sex offender in any jurisdiction;

k. The applicant's being the subject of any arrest warrant, mittimus or other court order for detention in any jurisdiction.

121.5(7) Not been convicted of any crime defined in Iowa Code section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9, or a like offense in another jurisdiction;

121.5(8) Not been convicted by any court of illegally using, carrying, or possessing a dangerous weapon;

121.5(9) Not have a history of mental illness or instability.

661—121.6(80A) Identification cards. Each person employed by and engaged in the business of a licensed bail enforcement, private investigative or private security agency must obtain an employee identification card from the department and must meet the standards established in rule 661—121.5(80A). However, applicants for employee identification cards are not required to comply with surety bond or proof of financial responsibility requirements as those requirements have already been met by the licensed agency. For purposes of this rule, an employee who is required to obtain an identification card from the department is an agent or employee of a licensed agency who is engaged in the activities of the business which render it subject to the regulation of Iowa Code chapter 80A. Employees who are engaged exclusively in the unregulated activities of a licensed agency are considered exempt from this standard. Such exempt activities include clerical work, dispatching, building maintenance, vehicle maintenance, payroll and other financial processing, selling and taking tickets, parking cars and other activities that do not provide direct security services and that are generally conducted away from a contracted job site.

121.6(1) To obtain an employee identification card, the licensed agency shall submit:

a. A completed Identification Card Application for: Private Investigator/Private Security Guard/Bail Enforcement Agent, Form #PD2;

b. Two 1″ × 1″ color photographs of the head and shoulders of the applicant; and

c. Two completed fingerprint cards (Form #FD–258), with the associated processing fees.

121.6(2) Reserved.

661—121.7(80A) License and background investigation fees.

121.7(1) A fee of $100 shall accompany each application for a bail enforcement, private investigative or private security license. If the application is approved, the money shall be applied to the license fee, but if the application is disapproved, the deposited application fee shall be refunded to the applicant. Application fees shall not be refunded for abandoned applications described in subrule 121.4(5) or for canceled, suspended or revoked licenses.

121.7(2) A nonrefundable fee to cover the cost of processing fingerprint cards through the FBI must be submitted with each new or renewal application and with each application subsequent to a license cancellation or revocation. If fingerprints are rejected as unreadable the first time they are submitted, they may be resubmitted once for no additional fee. If fingerprints are submitted twice and both submissions are rejected as unreadable, subsequent submissions shall require additional processing fees, which shall be included with the submissions. Information regarding fees may be obtained by contacting the department as provided in rule 661—121.1(80A).

661—121.8(80A) Display of license. Immediately upon receipt of the license issued by the department, the licensee named therein shall cause such license to be posted and at all times displayed in a conspicuous place in the licensee's principal place of business within the state, so that all persons visiting such place may readily see it. If there is more than one place of business, then there shall be a photocopy of the original license posted in every such place of business. The licensee shall notify the commissioner of each location where a copy of the license is posted. If the licensee has no office in the state of Iowa, the licensee shall post the license at the principal place of business and notify the commissioner of the address where such license is posted. Such license shall at all reasonable times be subject to inspection by the commissioner. It shall be unlawful for any person holding such license to post such license or to permit such license to be posted upon premises other than those authorized therein. Every license, and each copy thereof, shall be surrendered to the department within seven days after written notice to the holder that such license has been revoked. Failure to comply with any of the provisions of this rule is sufficient cause for revocation of the license.

661—121.9(80A) Duplicate license. The commissioner shall issue a duplicate license upon the payment of $5 and upon receiving a written statement that the original license has been lost, destroyed, stolen or otherwise rendered useless, and that if the original license is recovered, the original or the duplicate will be returned immediately to the department.

661—121.10(80A) License renewal. Each applicant for a license renewal must execute Form #PD3 provided by the department. This renewal form and two completed FBI Fingerprint Cards (Form #FD–258) shall be submitted to the commissioner not less than 30 days prior to expiration of the applicant's current license and shall not be processed unless complete. In order for the application to be complete, the applicant must satisfy the requirements of rules 661—121.4(80A), 661—121.5(80A), and 661—121.7(80A) and, for renewals of private investigation licenses, 661—121.22(80A).

In the event the department has not processed a complete renewal application prior to the lapse of the license, the renewal shall be deemed temporarily granted until the department issues a new license or denies the renewal.

In no event will a renewal license be granted if the application for renewal is received by the department after the expiration date of the existing license.

If the former licensee wishes to continue the bail enforcement, private investigative or private security business, all of the requirements for an initial application must be met.

661—121.11(80A) Employee identification cards.

121.11(1) The employee identification card issued by the commissioner shall include the employee's name and color photograph, agency name and number, type of business, date of issuance and identification card number.

The identification card shall be evidence that the holder is duly authorized to work for the licensed agency. The holder shall have this card in the holder's possession at all times when acting within the

scope of employment. Failure to do so may result in suspension or revocation of the identification card or the agency license. This identification card shall remain the department's property. When any person to whom a card is issued terminates the person's position for any reason, the card must be surrendered to the commissioner within seven days. In the event of loss, destruction, or theft of this card, the licensee shall within five days of such discovery send to the commissioner a written report that describes the circumstances surrounding the loss, destruction, or theft. If the agency license has been terminated or revoked, the agency must return the license and all identification cards to the commissioner within seven days. The penalty for any knowing or willful misconduct in the use of the identification card may be revocation of the identification card or the agency license or both, depending on the nature and degree of the misconduct.

The fee for each application form (Form #PD2) for an original, temporary, or replacement employee identification card is $10. The fee is refundable for blank, unused forms returned to the department.

A nonrefundable fee to cover the cost of processing fingerprint cards through the FBI shall be submitted with each new application for an employee identification card. If fingerprints are rejected as unreadable the first time they are submitted, they may be resubmitted once for no additional fee. If fingerprints are submitted twice and both submissions are rejected as unreadable, subsequent submissions shall require additional processing fees, which shall be included with the submissions.

121.11(2) Temporary identification cards. The Identification Card Application for: Private Investigator/Private Security Guard/Bail Enforcement Agent, Form #PD2, shall contain a temporary identification card that shall be valid for 14 calendar days from the date of issuance. This temporary identification card shall be issued to new employees of a licensee so that the requirement that employees have in their possession a valid identification card may be met while the application for a permanent identification card is being processed. The application for an employee identification card must be received by the department in sufficient time to allow four business days for processing. Any application for an employee identification card received by the department without the specified minimum time for processing or after the temporary identification card has expired will be returned to the licensed agency. A new Form #PD2 must then be resubmitted under the requirements of rule 661—121.6(80A).

121.11(3) Replacement of identification cards. The commissioner shall issue a duplicate employee identification card upon the submission of a complete new application (Form #PD2), with associated fees as required in rule 661—121.6(80A) and upon receipt of a written statement that the original employee identification card has been lost, destroyed, stolen or otherwise rendered useless. If the original employee identification card is recovered, it shall be returned immediately to the department.

121.11(4) Display of identification cards. When an employee of a licensed agency is acting within the scope of employment and is requested to produce identification, the employee shall promptly display the employee identification card and allow the requester to reasonably examine the identification card and write down any information contained thereon. Failure to comply may result in revocation of the identification card or license. The employee may refuse to comply with the request to produce identification if, and only if, displaying the employee identification card would put the employee or another person in danger, or would jeopardize an assignment or investigation.

661—121.12(80A) Badges, uniforms, insignia, patches and hats. No badges, uniforms, insignia, patches, or hats will be approved for private investigative or bail enforcement agents. No holder of a license or identification card while performing the duties of a private security guard shall wear any uniform, or wear, display, or likewise use any badge, insignia, patch, shield, or the like, without prior written approval of the commissioner. Any person wearing an approved uniform shall carry a valid identification card issued by the department.

The commissioner will not approve any item subject to this rule if in the commissioner's opinion it would cause a person to confuse the operation of the licensed business with that of a law enforcement agency. The commissioner may consider the appearance of the badge, uniform, insignia, patch or hat of the requesting agency, as well as the appearance of badges, uniforms, insignias, patches or hats of law enforcement agencies in or near the area in which the requesting agency performs services. The commissioner may also consider any other information when making a decision regarding the approval of any item subject to this rule.

Badges, insignia and patches will be approved only for private security as a part of an approved uniform. No badge, insignia, patch or hat will be approved which contains the word or words "police," "officer," "policeman," or "enforcement," or the Great Seal of the State of Iowa. The words "security" and "officer" may be used when they appear as the single term "security officer."

661—121.13(80A) Advertisement, cards, letterhead and the like. No holder of a license or identification card shall use, display, cause to be printed or distributed in any fraudulent, false, or misleading manner, cards, letterheads, circulars, brochures, or any other advertising material or advertisement in which any name or indicia of the license status of the licensee is set forth in any manner other than the name under which the licensee is duly licensed.

Such holder of a license or identification card shall not publish or cause to be published any advertisement, letterhead, circular or statement or phrase of any sort which suggests that the holder is a peace officer.

Any violation of this rule may result in suspension or revocation of the identification card or the license, and possible referral for criminal prosecution.

661—121.14(80A) Misleading statements. No holder of a license or identification card may make any statement which indicates or tends to indicate the individual is a peace officer.

661—121.15(80A) Reports. Any private investigative agency licensee who provides services to any client in this state shall make and offer to the client a typed or legibly written ink report containing the findings and complete details of the investigation, a copy of which shall be retained by the licensee for three years and made available to the commissioner for examination at any reasonable time upon a complaint from the client for whom the report was prepared. In the event a client does not desire a written report, the licensee will note the time and date on the file copy of the report that the client stated no desire for a written report or refused the offer. A private security agency need not submit a written report unless the client so requests one.

Descriptive reports, chronological reports, and cover letters to the client shall be personally signed by the licensee or the licensee's designee. The licensee's file copy will reflect the names of all participating employees and a description of the work performed by each one.

661—121.16(80A) Denial, cancellation, suspension, or revocation of a license or identification card.

121.16(1) *Actions by the commissioner.* The commissioner may deny, suspend, cancel or revoke a license or identification card(s) for any of the following reasons:

a. Failure to comply with all of the provisions of Iowa Code chapter 80A and Iowa Administrative Code, 661—Chapter 121.

b. Receipt by the department of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, as provided for in Iowa Code chapter 252J.

c. Receipt by the department of written notice that the licensed agency is no longer conducting business and is abandoning the remaining term of the license.

121.16(2) *Voluntary suspension.* The commissioner may allow an agency to place its license in voluntary suspension and may reinstate the license when all requirements are met. The license shall expire at the time of renewal unless all requirements are met.

121.16(3) *Surrender of license and identification card(s).* Every license, and each copy thereof, and all employee identification cards shall be surrendered to the department within seven days after written notice to the holder that such license has been canceled, abandoned, suspended or revoked.

121.16(4) *Surrender of identification card(s).* An employee identification card shall be surrendered to the department within seven days after written notice to the licensee that such employee identification card has been canceled or revoked.

121.16(5) *Temporary denial or suspension.* An agency license or employee identification card shall be temporarily denied or suspended until the outcome of any pending action is known if the result of that action would disqualify the applicant, licensee or employee.

661—121.17(80A) Licensee's duty regarding employees. The licensee shall be held responsible for ascertaining that all the licensee's employees meet the requirements of the bail enforcement, private investigation and private security statute and rules.

The licensee shall report to the commissioner any violations of the statute and rules, and inconsistencies thereof, and take immediate steps to be in compliance with such statute and rules.

The licensee is responsible for ensuring that each employee who is required to obtain an identification card from the department has a valid temporary or permanent identification card in the employee's possession prior to the employee's commencing work.

Failure to meet these requirements may result in suspension or revocation of the license or identification card(s).

661—121.18(80A) Campus weapon requirements. In addition to the requirements of the statutes, nothing in rule 661—4.3(17A,724) shall preclude the sheriff from requiring additional firearm training. However, if the sheriff so requires additional training, the sheriff shall make such training reasonably available to the applicant.

661—121.19(80A) Professional permit to carry weapons. Each person seeking a professional permit to carry weapons must meet the requirements of the Iowa Code and Iowa Administrative Code, 661—Chapter 4.

661—121.20(80A) Appeals. Any action of the department that the applicant or employee considers adverse may be appealed through the process delineated in Iowa Administrative Code, 661—Chapter 10.

661—121.21(252J) Child support collection procedures. The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

121.21(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant, identification card holder, or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee, identification card holder, or applicant may accept service personally or through authorized counsel.

121.21(2) The effective date of revocation or suspension of a license or identification card, or denial of the issuance or renewal of a license or identification card, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee, identification card holder, or applicant.

121.21(3) Licensees, identification card holders, and applicants for licenses or identification cards shall keep the department informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the department with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

121.21(4) All departmental fees for applications, license or identification card renewal or reinstatement must be paid by the licensee, identification card holder, or applicant before a license will be issued, renewed, or reinstated after the department has denied the issuance or renewal of a license or identification card, or has suspended or revoked a license or identification card pursuant to Iowa Code chapter 252J.

121.21(5) In the event a licensee, identification card holder, or applicant files a timely district court action following service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9, the department shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension or denial of the issuance or renewal of a license or identification card, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

661—121.22(80A) Continuing education requirements. The continuing education rules that follow rest upon the premise that the increasing complexity of the private investigation business makes it essential that private investigators who have been granted licenses to practice continue their education; the public interest requires that private investigators keep themselves continually up to date on developments affecting their practice; and formal programs of continuing education provide private investigators the opportunity to continually update themselves on the expanding body of knowledge required to practice the private investigation profession. Compliance with the continuing education requirements of the department shall be as follows:

Each person who is the holder of a license to operate a private investigative agency is required to comply with the continuing education requirements as a condition precedent to renewal of the person's license.

Each person who is the holder of an identification card to operate as a private investigator is required to comply with the continuing education requirements as a condition precedent to renewal of the employer's agency license.

121.22(1) *Cost of continuing education.* All costs of complying with the continuing education requirements of the department are the responsibility of the licensee who seeks to operate a private investigative agency in this state.

121.22(2) *Basic requirement.* A licensee seeking to renew the licensee's private investigative agency license shall, during the two-year period preceding the agency license expiration date, complete a minimum of 12 hours of acceptable continuing education. Employees of licensees shall, during the two-year period preceding the agency license expiration date, complete a minimum of 12 hours of acceptable continuing education. An employee who has worked for a licensed agency for less than 90 days at the time of the agency license expiration date shall be exempt from the continuing education requirement of this chapter, provided that during the preceding two years the employee has not been employed as a private investigator for a licensed agency or agencies in this state for a combined total of more than 180 days.

a. Applicants who are residents of another state, who are licensed to operate a private investigation agency in their state of residency, and who are actively engaged in the practice in their state of residence, shall not be required to meet the basic continuing education requirement if their state of residence requires similar continuing education to maintain their private investigative agency license.

b. The commissioner shall have the authority to make exceptions for reasons of individual hardship including health (certified by a medical doctor), military service, foreign residency, or other good cause.

c. Applicants for new licenses who have held a private investigative agency license in Iowa within the past two years shall complete a minimum of 12 hours of acceptable continuing education during the two-year period preceding the date of application.

121.22(3) *Measurement standards.* The following standards will be used to measure the hours of credit to be given for acceptable continuing education programs completed by individual licensees:

a. Credit will be given for whole hours only, with a minimum of 50 minutes constituting one hour. For example, 100 minutes of continuous instruction would count for two hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would count for only one hour.

b. Only class hours or the equivalent, and not student hours devoted to preparation, may be counted.

c. Service as lecturer or discussion leader of continuing education programs may be counted to the extent that it contributes to the applicant's professional competence.

121.22(4) *Programs which qualify.* The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice in this state. It will be left to the individual license holder to determine the course of study to be pursued. Thus, each licensee may study subjects related to the licensee's particular practice.

a. Continuing education programs will qualify only if:

(1) An outline of the program is prepared in advance and preserved.

(2) The program is at least one hour (50-minute period) in length.

(3) The program is conducted by a qualified instructor, discussion leader, or lecturer. A qualified instructor, discussion leader, or lecturer is anyone whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program.

(4) A record of attendance is maintained.

b. The following programs are deemed to qualify provided all other requirements of this rule are met:

(1) Professional development programs of recognized national and state private investigation organizations.

(2) Technical sessions at meetings of recognized national private investigation organizations and their chapters.

(3) University or college courses.

1. Each semester hour credit shall equal 10 hours toward the requirement.
2. Each quarter hour credit shall equal 6 hours toward the requirement.
3. Each classroom hour of noncredit courses will equal 1 qualifying hour.

(4) Formal organized in-firm and interfirm educational programs.

(5) Programs in other recognized organizations (accounting, industrial, legal and others).

(6) Other organized educational programs on technical and other related subjects.

c. The following general subject matters are acceptable as long as they contribute to the professional competence of the individual investigator.

(1) Accounting and auditing.

(2) Management.

(3) Computer science.

(4) Communications arts.

(5) Law.

(6) Functional fields of the business, including but not limited to the following:

1. Accident investigation.
2. Background investigation.
3. Business taxes.
4. Criminal investigation.
5. Court testimony.
6. Employee theft.
7. Process service.
8. Personnel law.
9. Product liability.
10. Public records availability/access.
11. Report writing.
12. Substance abuse in the workplace.
13. Surveillance techniques.
14. Wage and hour law.
15. Workers' compensation law.

Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to the licensee's professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the licensee.

d. Formal correspondence and formal individual study programs contributing directly to the professional competence of an individual which require registration and provide evidence of satisfactory completion will be considered for credit. The amount of credit to be allowed for correspondence and formal individual study programs is to be recommended by the program sponsor and shall not exceed 50 percent of the continuing education requirement.

e. Practical training, also known as field training or on-the-job training, qualifies if it meets the criteria of paragraphs *"a"* through *"c"* of this subrule, is accompanied by classroom training in the same topic area, and counts for no more time than the classroom training.

f. The right is specifically reserved to the commissioner to approve or disapprove credit for continuing education claimed under these rules.

121.22(5) *Controls and reporting.*

a. Applicants for license renewal must provide a signed statement, on forms provided by the department, setting forth the continuing education in which the licensee and the licensee's employees have participated in such manner and at such times as prescribed by the commissioner. This information may include:

(1) School, firm or organization conducting the course.

(2) Location of course.

(3) Title of course and description of content.

(4) Principal instructor.

(5) Dates attended.

(6) Hours claimed.

b. The commissioner may require sponsors of courses to furnish attendance lists or any other information the commissioner deems essential for administration of these continuing education rules.

c. The commissioner will verify on a test basis information submitted by licensees. If an application for license renewal is not approved, the applicant will be so notified and may be granted a period of time by the commissioner in which to correct the deficiencies noted.

d. Primary responsibility for documenting the requirements rests with the licensee and evidence to support fulfillment of those requirements must be retained for a period of three years subsequent to submission of the report claiming the credit. Satisfaction of the requirements, including retention of attendance records and written course outlines, may be accomplished as follows:

(1) For courses taken for scholastic credit in accredited universities and colleges or high school districts, evidence of satisfactory completion of the course will be sufficient. For noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the permit holder.

(2) For correspondence and formal independent study courses, written evidence of completion must be obtained by the licensee.

(3) In all other instances, the licensee must maintain a record of the information listed in subrule 121.22(4) and a copy of the course outline prepared by the course sponsor.

121.22(6) *Compliance.*

a. *Renewals.* If a licensee fails to comply with continuing education requirements prior to the expiration of the license, the department may grant a temporary 30-day license. If the licensee does not complete the continuing education requirements within the 30-day period, the license renewal shall be denied. If the former licensee then wishes to continue the private investigation business, all of the requirements for an initial application must be met. This includes continuing education requirements if the new application is submitted within two years of the date on which the last license became invalid.

b. *New applications for previously licensed persons.* If an applicant for a private investigative agency license has been licensed in Iowa within the past two years, continuing education requirements must be met. Failure to comply shall result in the denial of the license until such time as the requirements are met.

c. *Employees.* If any employee of a licensee fails to comply with continuing education requirements, the employee's identification card shall be revoked and the licensee shall surrender the identification card to the department. An employee may reapply for an identification card as if it were an initial application when continuing education requirements have been met.

661—121.23(80A) Reciprocity.

121.23(1) *Eligibility.* A temporary permit to conduct business in Iowa may be issued to a private investigative or private security agency licensed in another state provided that the requirements and qualifications in the licensing state are similar to those in Iowa and that the licensing state allows similar privileges by reciprocity. A temporary permit may be issued for a period not to exceed 90 days and is not renewable. Employees of an agency granted a temporary permit must comply with Iowa employee requirements in rules 661—121.6(80A) and 661—121.11(80A).

121.23(2) *Requirements.* In order to be considered for a temporary permit, the applicant must undergo a background investigation by the department and shall submit the following:

a. Proof of a current valid bail enforcement, private investigative or private security license in another state. Such license shall be of the same license type as the temporary permit requested from Iowa.

b. A completed Application for Bail Enforcement Agency License, Private Investigative Agency License and/or Private Security Agency License (Form #PD1).

c. Two completed FBI Fingerprint Cards (Form #FD–258), with the associated processing fees.

d. Proof of surety bond issued by a surety company authorized to do business in this state.

e. Proof of insurance.

f. If the applicant is a corporation, articles of incorporation and an Iowa certificate of authority issued by the Iowa secretary of state.

g. Two 1″ × 1″ color photographs of the head and shoulders of the applicant, taken not more than one year prior to application.

h. A fee of $100 for each temporary permit requested.

i. An application, with associated fees, for an employee identification card (Form #PD2) for the temporary permit holder.

121.23(3) *Employee identification cards.* The temporary permit holder shall submit an application for an employee identification card for each employee as required in rule 661—121.6(80A).

661—121.24(80A) Replacement license. The commissioner shall issue a replacement license upon receiving a written statement that the original license has been lost, destroyed, stolen or otherwise rendered useless by damage from flooding, storms or other conditions which form a basis for issuance of a disaster emergency proclamation by the governor pursuant to Iowa Code section 29C.6. If the original license is recovered, the original or the replacement will be returned immediately to the department. No fee shall be charged for the issuance of a replacement license.

661—121.25(80A) Private school security officer training requirements. A private school security officer shall participate in annual live scenario training as described in rule 661—91.18(724) and shall participate in an initial familiarization firearm and course of fire training and subsequent quarterly live firearm training as described in rule 661—91.19(724).

[**ARC 8226C**, IAB 9/18/24, effective 10/23/24]

These rules are intended to implement Iowa Code chapter 80A.

[Filed 6/30/75]

[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]

[Filed 11/1/84, Public Hearing Notice 9/12/84—published 11/21/84, effective 1/1/85]

[Filed emergency 12/4/84—published 12/19/84, effective 1/1/85]

[Filed emergency 5/31/85—published 6/19/85, effective 5/31/85]

[Filed 1/10/86, Notice 11/20/85—published 1/29/86, effective 3/6/86]

[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]

[Filed emergency 6/29/89—published 7/26/89, effective 7/1/89]

[Filed 10/13/89, Notice 7/26/89—published 11/1/89, effective 1/1/90]

[Filed 12/4/92, Notice 9/16/92—published 12/23/92, effective 2/1/93]

[Filed 11/3/95, Notice 6/7/95—published 11/22/95, effective 1/1/96]

[Filed 7/25/96, Notice 6/19/96—published 8/14/96, effective 10/1/96]

[Filed 3/7/97, Notice 10/9/96—published 3/26/97, effective 6/1/97]

[Filed emergency 6/23/98—published 7/15/98, effective 7/1/98]

[Filed 2/5/99, Notice 7/15/98—published 2/24/99, effective 4/1/99]

[Filed emergency 11/30/00—published 12/27/00, effective 12/1/00]

[Filed emergency 6/5/02—published 6/26/02, effective 7/1/02]

[Filed 2/28/03, Notice 8/21/02—published 3/19/03, effective 5/1/03]

[Filed emergency 4/29/05—published 5/25/05, effective 5/1/05]

[Filed 11/3/05, Notice 6/8/05—published 11/23/05, effective 1/1/06]

[Filed emergency 6/30/08—published 7/30/08, effective 7/1/08]

[Editorial change: IAC Supplement 6/17/09]

[Filed ARC 8226C (Notice ARC 8141C, IAB 7/24/24), IAB 9/18/24, effective 10/23/24]

CHAPTERS 122 to 140
Reserved

CHAPTER 141
CLOSED CIRCUIT SURVEILLANCE SYSTEMS

[Prior to 6/8/05, see 661—Ch 23]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—141.1(99F) Definitions. The following definitions apply to rules in 661—Chapter 141:

"Administrator" means the administrator of the Iowa racing and gaming commission.

"Applicant" means any person applying for an occupational license or applying for a license to operate an excursion gambling boat, or the officers and members of the board of directors of a qualified sponsoring organization located in Iowa.

"Casino surveillance" means the observation of gambling activities in a gaming facility licensed by the commission. The purpose of a surveillance system is to safeguard the licensee's assets, to protect both the public and the licensee's employees, and to promote public confidence that licensed gambling activities are conducted honestly and free of criminal elements and activities. It is the responsibility of the licensee to ensure that casino surveillance is used to accomplish the stated purpose and is not used in an improper manner which would bring discredit to the industry.

"Closed network" or *"closed circuit"* means all digital recording equipment and all other associated surveillance equipment that shall be designed, configured, and maintained on a separate and exclusive network system located on the same premises as the casino, or on property adjacent to the casino which has been approved by the DCI for the location of surveillance equipment pursuant to subrule 141.10(1). This closed network system shall not be touched by, connected to, or partitioned from any other network, unless approval has been received from the assistant director for gaming operations of the DCI. Approval or disapproval of such a request by the assistant director is subject to review by the director of the DCI or the commissioner of public safety.

"Commission" means the Iowa racing and gaming commission.

"DCI" means the division of criminal investigation, Iowa department of public safety.

"Dedicated coverage" means camera coverage where the sole function is to view and record a specific area whenever activity is occurring in that area.

"Designated sports wagering area" means an area, as designated by a licensee and approved by the commission, in which sports wagering is conducted.

"Gambling activities" means participating in any form of on-site wagering as defined by Iowa Code chapter 99F and approved by the commission; the movement, storage, and handling of uncounted gambling revenues; the manual exchange of moneys for forms of wagering credit on the gaming floor; public entrance into and public egress from the gaming floor, except that egress through emergency exits that are actively alarmed is not included; and any other activities so defined by the commission.

"Gambling game" means any game of chance authorized by the commission.

"Gangplank" means the walkways that passengers use to embark and disembark from the excursion gambling boat.

"Land-based facility" means the licensee's operation where the soft count room is located, if other than on an excursion gambling boat.

"Licensee" means a qualified sponsoring organization conducting gambling games on an excursion gambling boat or in a racetrack enclosure licensed by the Iowa racing and gaming commission under Iowa Code section 99F.7.

"Operator" means an entity licensed by the Iowa racing and gaming commission to operate an excursion gambling boat or racetrack enclosure.

"Slot change booth" means a structure on the floor of a licensed gaming establishment which houses a coin-counting device that is utilized to redeem coins or tickets from patrons.

[**ARC 7720B**, IAB 4/22/09, effective 4/1/09; **ARC 4802C**, IAB 12/4/19, effective 1/8/20]

661—141.2(99F) Minimum standards. Rescinded IAB 4/22/09, effective 4/1/09.

661—141.3(99F) Surveillance departments—organizational structure. Rescinded IAB 4/22/09, effective 4/1/09.

661—141.4(99F) Closed circuit surveillance system.

141.4(1) Every licensee shall install, maintain and operate, on the same premises where the casino is located or, with the approval of the DCI, on a property adjacent to the casino, a closed circuit surveillance system according to specifications set forth in these rules and shall provide to the commission and the DCI access at all times to the system or its signal.

141.4(2) Any casino issued a license on or after July 1, 2004, will be required to install a recording system that is totally digital and that meets the requirements as outlined in this chapter.

141.4(3) All licensees shall have in place digital recording systems that meet the requirements of this chapter no later than January 1, 2011. Any system converted to digital prior to January 1, 2011, must meet the requirements of this chapter upon installation.

661—141.5(99F) Required equipment. The closed circuit surveillance system shall include, but shall not be limited to, the following equipment:

141.5(1) *Cameras.* The system shall include Pan Tilt Zoom cameras, commonly referred to as PTZ cameras, that are light-sensitive and capable of being placed behind a dome or one-way mirror which conceals the PTZ cameras from view. Each camera shall have the capability to distinguish a clear, unobstructed view of the table number of the gaming table or slot machine.

141.5(2) *Printers.*

a. *Video systems.* The printers for video systems shall be capable of adjustment and must possess the capability to generate instantaneously upon command a clear, still copy of the image depicted on a videotape recording with a minimum of 128 shades of gray.

b. *Digital systems.* The printers for digital systems shall be capable of printing a clear, still copy using a minimum of four colors at 600 × 600 dots per inch on photo-quality paper.

141.5(3) *Monitors.* Each screen must be at least 12 inches measured diagonally and all controls must be front-mounted. Solid state circuitry is required.

141.5(4) *Date and time generators.* Each system shall be capable of synchronized recording in military time, with both the time and date of the recorded events displayed without obstructing the recorded view.

141.5(5) *Universal power supply.* The system and its equipment must be directly and securely wired in a way to prevent tampering with the system. In the event of a loss in power to the surveillance system, an auxiliary or backup power source must be available and capable of providing immediate restoration of power to the elements of the surveillance system that enable surveillance personnel to observe the gaming activity remaining open for play and all areas monitored by dedicated coverage.

141.5(6) *Domes for cameras.* The domes shall be made of sufficient quality and size to accommodate PTZ cameras and shall be capable of accommodating clear, unobstructed views.

141.5(7) *Switchers.* The switchers shall be capable of both manual and automatic sequential switching for the entire surveillance system.

141.5(8) *Recorders.* Each camera required by these standards must possess the capability of having its view displayed on a video or computer monitor and recorded. The surveillance system must include enough monitors and recording capacity to simultaneously display and record multiple gaming, cage, drop, count room activities, and record the views of all dedicated coverage. Recording systems shall be capable of copying original images while maintaining the original native format, and storing images in a format that contains a method to verify the authenticity of the original recordings and copies. The licensee shall supply the medium for download and transfer of the information and a jewel case or sleeve for the medium.

141.5(9) *Digital systems.*

a. All images and audio shall be digitally recorded and stored on a system with backup and retrieval capabilities.

b. Recording systems shall be locked by the manufacturer to disable the erase and reformat functions and to prevent access to the system data files.

c. The system shall provide uninterrupted recording while the playback or copy function is used.

d. If the licensee chooses to use a network for the digital recording equipment, it must be a closed network with limited access located on the same premises as the casino or, with the approval of the DCI, on a property adjacent to the casino. Nothing in this paragraph shall be interpreted to prevent the commission from utilizing or transmitting for regulatory purposes images recorded by a video surveillance system.

e. The licensee shall provide the DCI and the commission representative with the necessary software and hardware to review a downloaded recording. Additionally, the licensee shall provide the DCI and the commission representative with printers meeting the requirements as outlined in 661—subrule 141.5(2).

f. The licensee shall be responsible for staffing the surveillance room with licensed staff trained in the use of digital equipment. Surveillance employees shall be capable of downloading or copying digital audio or images, or both, for evidentiary purposes.

[**ARC 7720B**, IAB 4/22/09, effective 4/1/09]

661—141.6(99F) Required surveillance. Every licensee or operator shall conduct and record, as required by either the commission or the DCI, surveillance that allows clear, unobstructed views of all on-site gambling activities in the following areas of the gaming floor, designated sports wagering area, and related areas, land-based facilities, and racetrack enclosures:

141.6(1) *Slot machines.* Every licensee who exposes slot machines for play shall install, maintain, and operate a casino surveillance system that possesses the capability to monitor and record the slot machine number.

141.6(2) *Table games.* The surveillance system must possess the capability to monitor and record all gaming or card table surfaces; table number, including table bank trays, with sufficient clarity to permit identification of all chips, cash, card values, and the outcome of the game; dice in craps games, with sufficient clarity to read the dice in their stopped position after each roll; and all roulette tables and wheels must be capable of being monitored and recorded on a split screen to permit views of both the table and the wheel on one monitor screen. Each table or card game shall have the capability of being monitored and recorded by no less than two cameras.

141.6(3) *Progressive table games.* Each progressive table game must be monitored by dedicated coverage that provides views of the table surface so that the card values and card suits can be identified and a view of the progressive meter jackpot amount.

141.6(4) *Casino cage, slot change booth, sports wagering counter, and self-service coin, token, sports wagering or ticket redemption center.* The surveillance system must possess the capability to monitor and record a general overview of activities occurring in each casino cage, slot change booth, sports wagering counter and self-service coin, token, sports wagering or ticket redemption center with sufficient clarity to identify patrons and employees at the counter area, cash drawers, vaults, safes, countertops, coin and currency counting machines, and chip and token storage, and to identify chip, token, and currency denominations. The casino cage, sports wagering counter, and slot change booth area in which fills, credits, sports wagering tickets, and jackpots are transacted must be monitored by dedicated coverage that provides views with sufficient clarity to identify the chip, token, and currency values and the amounts on the fill/credit slips.

141.6(5) *Count rooms.* The surveillance system must possess the capability to monitor and record all areas within the hard or soft count room, including walls, doors, scales, wrapping machines, coin sorters, currency counters, vaults, safes, and general work surfaces, whenever funds or persons are present. The counting surface in the soft count room must be made of a transparent material. Any area where uncounted coin or currency is stored must be monitored by dedicated coverage. In addition, the hard count and soft count process must be monitored by dedicated coverage.

141.6(6) *Movement of funds.* The surveillance system must possess the capability to monitor and record the movement of cash, gaming chips, tokens, drop boxes and drop buckets. All casino and designated sports wagering area entrance and exit doors, elevators, stairs, gangplanks, and loading and unloading areas shall also possess the capability to be monitored and recorded if they are utilized for the movement of uncounted moneys, tokens, or chips.

141.6(7) *Admissions entrance and exits.* The admissions entrance and exit areas of the excursion gambling boat and racetrack enclosures must be monitored by dedicated coverage with sufficient clarity to identify patrons and employees at the admissions entrance and exit areas.

141.6(8) *Overall views.* The surveillance system must possess the capability to monitor and record the casino pit area and general casino floor with sufficient clarity to permit identification of players, employees, patrons, and spectators.

141.6(9) *Digital systems.* All areas that require dedicated coverage and all images viewed on a surveillance operator's working monitor shall be recorded at a sufficient rate of images per second so that, when played back in real time, there is no motion loss detectable to the human eye.

[**ARC 7720B**, IAB 4/22/09, effective 4/1/09; **ARC 4802C**, IAB 12/4/19, effective 1/8/20]

661—141.7(99F) Equipment in DCI offices. Excursion gambling boat, racetrack enclosure or land-based offices assigned to the DCI shall be equipped with at least two video or computer monitors, each a minimum of 12 inches, with control capability of any source in the surveillance system. The following shall be additional mandatory equipment for said room or rooms:

1. A printer meeting the specifications of 661—subrule 141.5(2).
2. Two recorders.
3. Audio pickup of soft count room.
4. Time and date generators, if not in the master surveillance system.
5. Total override surveillance system capabilities.

661—141.8(99F) Camera lenses. All closed circuit cameras shall be equipped with lenses of sufficient quality to show clearly the value of gaming chips, tokens, and playing cards. These cameras shall be capable, at a minimum, of black and white recording and viewing, except those cameras covering exits and entrances of the casino area and gangplank areas, which shall be capable of recording in color.

661—141.9(99F) Lighting. Adequate lighting shall be present in all areas of the casino and count rooms to enable the video surveillance system to provide clear viewing and reproductions.

661—141.10(99F) Surveillance room. There shall be provided in each gambling facility or gambling structure a room specifically utilized to monitor and record gambling activities. This room shall have a trained surveillance person present at all times during casino operation hours. In addition, an excursion gambling boat, racetrack enclosure, or gambling structure may have satellite monitoring equipment. The following are requirements for the operation of equipment in the surveillance room and of satellite monitoring equipment:

141.10(1) *Surveillance equipment location.* All equipment that may be utilized to monitor or record views obtained by a casino surveillance system must remain in a room located on the same premises as the casino or, with the approval of the DCI, on property adjacent to the casino. The room must be used exclusively for casino surveillance security purposes. The satellite monitoring equipment must be capable of being disabled from the casino surveillance room when not in use. The entrance to the casino surveillance room must be locked or secured at all times.

141.10(2) *Override capability.* Casino surveillance equipment must have total override capability over any other satellite monitoring equipment in other casino offices, with the exception of the DCI rooms.

141.10(3) *Access.* DCI and commission employees shall at all times be provided immediate access to the casino surveillance room and satellite monitoring equipment. Also, all DCI and commission employees shall have access to all records and areas of such rooms.

141.10(4) *Surveillance logs.* Entries in the log shall be required when specific surveillance is requested by the DCI or the commission, or whenever any activity that appears unusual, irregular, illegal or in violation of commission rules is observed. Also, all communications received or sent from the surveillance room in regard to surveillance activities or casino operations shall be logged.

141.10(5) *Blueprints.* A copy of the configuration of the casino floor shall be posted and updated immediately upon any approved change. The location of any change and the location of surveillance cameras, gaming tables and slot machines by assigned numbers shall also be included. Copies of the blueprints shall be made available immediately to the DCI and commission.

141.10(6) *Storage and retrieval.* Surveillance personnel shall label and file all recordings. The date and time of the recording shall be recorded. Recordings of public admission entrances, public exits, and

casino cashier cages where check-cashing activities occur shall be retained for 21 days unless a longer period is required by the DCI, the commission, or court order. All other recordings shall be retained for at least 7 days after recording unless a longer period is required by the DCI, the commission, or court order. Original audio, video, and digital recordings shall be released to the DCI or commission upon demand.

141.10(7) *Malfunctions.* Each malfunction of surveillance equipment must be repaired within 24 hours of the malfunction. If, after 24 hours, activity in the affected area cannot be monitored, the game or machine shall be closed until such coverage can be provided. A record of all malfunctions shall be kept and reported to the DCI each day. In the event of a dedicated coverage malfunction, the licensee must immediately provide alternative camera coverage or other security measures that will protect the subject activity. If other security measures are taken, the licensee must immediately notify the DCI. The DCI, in its discretion, will determine whether the other security measures are adequate.

141.10(8) *Security.* Entry to the surveillance room and access to satellite monitoring equipment shall be limited to persons approved by the DCI or the commission. A log of personnel entering and exiting the surveillance room and accessing satellite monitoring equipment shall be maintained and submitted to the DCI or the commission upon request.

141.10(9) *Playback station.* Within the DCI room, there shall be an area that includes, but is not limited to, a monitor and a recorder with the capability of producing first-generation copies.

141.10(10) *Additional requirements.*

a. Audio and video or digital monitoring and recording shall be continuous in the detention areas when someone is being detained. These recordings must be retained for 30 days after the recorded event, unless directed otherwise by the administrator, DCI or court order.

b. The commission, its employees, and DCI agents shall, at all times, be provided immediate access to the surveillance room and all areas of the casino.

141.10(11) *Written plans and alterations.*

a. Every operator or applicant for licensing shall submit to the commission for approval by the administrator and to the DCI for approval a written casino surveillance system plan no later than 60 days prior to the start of gaming operations.

b. A written casino surveillance system plan must include a casino floor plan that shows the placement of the surveillance room and all casino surveillance equipment in relation to the locations required to be covered and a detailed description of the casino surveillance system and its equipment. In addition, the plan may include other information that evidences compliance with these rules by the licensee, operator or applicant.

c. The operator may change the location of the surveillance room, table games, slot machines, and other gaming devices. The surveillance system must also be adjusted, if necessary, to provide the coverage required by these rules. A DCI agent must approve the change in the surveillance system before the relocated surveillance room, table games, slot machines, or other gaming devices may be placed into operation.

Exception:

A commission representative may allow a gambling game to be placed in operation pending approval by a DCI agent.

[**ARC 7720B**, IAB 4/22/09, effective 4/1/09]

661—141.11(99F) Nongambling hours. Security surveillance will be required during nongambling hours as follows:

141.11(1) *Cleanup and removal time.* At any time that cleanup operations or money removal is being conducted in the casino area, the security surveillance room must be staffed with a minimum of one trained surveillance person.

141.11(2) *Locked-down mode.* Anytime the casino is closed and in a locked-down mode, sufficient surveillance coverage must be conducted to monitor and record the casino in general so that security integrity is maintained. During this period, the presence of a trained security surveillance person shall not be required.

661—141.12(99F) Waivers from requirements. Upon written request of an applicant, licensee, or operator, the director of the DCI may, for just cause, waive any requirement of this chapter, provided that the director finds that all of the following conditions exist:

1. The requirement requested to be waived is not imposed by statute or another provision of law, and the establishment of the requirement is entirely within the authority of the department of public safety.
2. Enforcing the requirement would impose an undue hardship on the applicant, licensee, or operator requesting the waiver.
3. Granting the waiver would not prejudice the substantial legal rights of any person.
4. Substantially equal protection of public health, safety, and welfare to that which would result from the enforcement of the requirement will be afforded through another means.

Each request for a waiver shall be reported to the agency rules administrator of the department of public safety, with an indication of the disposition of the request and a brief explanation of the reasons for granting or denying the waiver.

These rules are intended to implement Iowa Code section 99F.4.

[Filed 11/26/90, Notice 9/19/90—published 12/12/90, effective 1/16/91]
[Filed 10/30/97, Notice 7/16/97—published 11/19/97, effective 1/1/98]
[Filed emergency 6/30/04—published 7/21/04, effective 7/1/04]
[Filed 5/18/05, Notice 3/16/05—published 6/8/05, effective 8/1/05]
[Filed 1/22/08, Notice 10/10/07—published 2/13/08, effective 4/1/08[1]]
[Editorial change: IAC Supplement 7/2/08]
[Filed Emergency After Notice ARC 7720B (Notice ARC 7563B, IAB 2/11/09), IAB 4/22/09, effective 4/1/09]
[Filed ARC 4802C (Notice ARC 4650C, IAB 9/11/19), IAB 12/4/19, effective 1/8/20]

[1] April 1, 2008, effective date of ARC 6591B delayed 70 days by the Administrative Rules Review Committee at its meeting held March 7, 2008. At its meeting held June 9, 2008, the Committee delayed the effective date until the adjournment of the 2009 Session of the General Assembly.

CHAPTERS 142 to 149
Reserved

CHAPTER 150
DIVISION OF CRIMINAL INVESTIGATION CRIMINALISTICS LABORATORY

[Prior to 11/22/06, see 661—Ch 12]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—150.1(691) Criminalistics laboratory. The state criminalistics laboratory, created in Iowa Code section 691.1, is located, pursuant to that section, within the division of criminal investigation.

150.1(1) *Identification.* The state criminalistics laboratory shall be known as the division of criminal investigation criminalistics laboratory. Unless the context clearly implies otherwise, the term "laboratory," when used in this chapter, shall mean the division of criminal investigation criminalistics laboratory.

150.1(2) *Administration.* The laboratory shall be headed by an administrator who shall report to the director of the division of criminal investigation.

150.1(3) *Contact information.*

a. The address of the laboratory for receiving mail or shipped materials is:

Iowa DCI Criminalistics Laboratory
2240 South Ankeny Boulevard
Ankeny, Iowa 50023

b. The telephone number of the laboratory is (515)725-1500.

c. Information regarding the laboratory may be obtained from the department Web site.

NOTE: Currently, information about the laboratory may be found at www.dps.state.ia.us/DCI/Crime_Lab/index.shtml.

661—150.2(691) Purpose and scope of work. The laboratory provides forensic science services to law enforcement agencies within the state of Iowa. The laboratory shall, within its capabilities, conduct analyses and comparative studies on physical evidence to aid in any criminal investigation, when requested by a prosecuting attorney, a medical examiner, or a law enforcement agency.

150.2(1) *Resource or capability limitations.*

a. The laboratory administrator may refuse any request to conduct an analysis when, in the judgment of the administrator, the laboratory is unable to adequately conduct the requested analysis, either because of resource limitations or because the analysis is not within the professional capabilities of laboratory personnel.

b. The laboratory administrator may establish a policy excluding evidence of specific types or evidence arising from certain types of cases from being accepted by the laboratory, if the administrator finds that such a policy is necessary either due to resource constraints, safety concerns, or the professional capabilities of laboratory personnel. Any policy adopted pursuant to this paragraph shall be provided to all county attorneys, medical examiners, and law enforcement agencies within Iowa.

c. If analysis by the laboratory of specific evidence arising from a criminal investigation in Iowa has been excluded pursuant to either paragraph *"a"* or *"b,"* the administrator may, at the administrator's discretion, assist the agency requesting the analysis in locating the services of another laboratory able to perform the requested analysis.

150.2(2) *Exclusion by law.* The laboratory shall only perform analyses which have arisen from, or will aid in, criminal investigations or which are otherwise provided for by law.

661—150.3(691) Laboratory capabilities. The laboratory is capable of performing any forensic scientific analysis for which a laboratory staff member has received appropriate training and for which the necessary equipment and materials are available to the staff member performing the analysis.

The following subrules catalogue and explain specific laboratory capabilities. These descriptions and explanations are provided for informational purposes and in no way limit the authority of the laboratory to perform any analysis for which a staff person is appropriately trained and for which necessary equipment and materials are available. Further information regarding the current forensic science capabilities of the laboratory may be obtained in the Iowa Criminalistics Laboratory Quality Assurance Manual, published by the division of criminal investigation criminalistics laboratory.

150.3(1) *Crime scene response.* The laboratory may assist law enforcement agencies, when appropriate, by responding to a crime scene and may examine, collect and preserve physical evidence.

150.3(2) *Breath alcohol section.* The breath alcohol section provides testing, approval, repair, maintenance and certification of breath testing instruments, provides officer training and certification in the use of evidential breath testing equipment, and provides expert testimony in the area of breath testing instrumentation and the effects of alcohol on the human body.

150.3(3) *Controlled substance identification.* The laboratory will identify and quantify, when appropriate, materials suspected to contain controlled substances, and will identify items of significance recovered from clandestine drug laboratories.

150.3(4) *DNA.* The laboratory will examine evidence for human biological samples and characterize the samples using DNA technologies.

150.3(5) *DNA profiling.* The laboratory will generate and maintain DNA profiles from qualifying offenders.

150.3(6) *Firearms.* The firearms section examines firearms, ammunition and ammunition components to determine whether a specific firearm fired a specific bullet or cartridge case or, lacking a specific firearm, to determine the possible type of firearm which could have fired the evidentiary bullets and cartridge cases. The firearms section also reconstructs shooting scenes to determine the distance from the muzzle of the firearm to the target, and examines firearms to determine if they function as designed or have been altered from the original design.

The firearms section also maintains a reference collection of firearms and ammunition for comparison purposes and is responsible for the inventory and destruction of firearms forfeited to the laboratory under the Iowa Code.

150.3(7) *Latent prints and impressions.* The latent prints and impressions section:

a. Examines evidence for visible or latent prints.

b. Makes comparisons to known friction skin exemplars of the fingers, palms and soles of the feet.

c. Examines footwear, tire tracks, and other impression evidence and compares the evidence to known exemplars.

150.3(8) *Photography.* The photography section provides photographic and video processing services, both digital and film-based, required by all divisions of the department of public safety.

150.3(9) *Questioned documents.* The questioned documents section characterizes and compares handwritten and machine-produced documents to determine facts about their origins.

150.3(10) *Tool marks.* The tool marks section examines tools and tool marks to determine whether a specific tool produced a specific mark on an item of evidence or, lacking the tool, what type of tool produced a specific mark.

150.3(11) *Toxicology.* The toxicology section examines biological samples for the presence of ethyl alcohol and common drugs of abuse.

150.3(12) *Trace and arson.* The trace and arson section examines submitted materials to characterize, identify, or compare them using various analytical techniques. Examples of materials include but are not limited to: ignitable liquids, glass, paint, soil, building materials, explosives, and fibers.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—150.4(691) Evidence submission to the laboratory.

150.4(1) Evidence may be submitted to the laboratory by:

a. Any law enforcement agency in Iowa;

b. The Iowa department of corrections;

c. Any other criminal or juvenile justice agency, with the approval of the laboratory administrator; or

d. Any other state agency, with the approval of the laboratory administrator.

150.4(2) Evidence may be submitted to the laboratory via regular, certified, or registered mail or personal service. Any evidence to be submitted to the laboratory shall be entered electronically into the laboratory information management system prior to submission. Each entry shall include a description of each item to be submitted and an examination request for each item to be submitted.

NOTE: Access to the laboratory information management system is restricted to authorized users representing agencies authorized to submit evidence to the laboratory. Authorized users should contact the laboratory for instructions regarding access to the system.

150.4(3) Evidence submitted to the laboratory which is not personally delivered shall be packaged in such a manner that laboratory personnel can determine that the package has not been opened while in transit. If the laboratory receives an unsealed or damaged package, the laboratory may refuse to process such evidence, if the integrity of the evidence has been compromised.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—150.5(17A,691) Distribution of reports.

150.5(1) A copy of each completed report of analyses performed by the laboratory shall be provided to the submitting officer and to the prosecuting attorney. The prosecuting attorney shall be responsible for providing copies of any laboratory report to the defendant or defendants as required by law.

150.5(2) Results of laboratory analyses shall not be made available to any unauthorized person or organization.

661—150.6(17A,691) Disposition of evidence.

150.6(1) Evidence will be returned to the submitting agency, unless one of the following conditions applies:

a. Retention of the evidence would be beneficial for future laboratory analysis.

b. Returning the evidence presents a hazard to health or safety. Any required notice to the defendant of destruction of evidence pursuant to this paragraph is the responsibility of the prosecuting attorney.

150.6(2) Evidence shall not be transferred or submitted to any person or agency other than the submitting agency without an applicable court order, unless authorized by the submitting agency.

These rules are intended to implement Iowa Code chapter 691.

[Filed 6/30/75]
[Filed 4/12/76, Notice 3/8/76—published 5/3/76, effective 6/7/76]
[Filed emergency 6/4/76—published 6/28/76, effective 6/4/76]
[Filed 2/28/78, Notice 1/11/78—published 3/22/78, effective 4/26/78]
[Filed emergency 1/25/79—published 2/21/79, effective 1/25/79]
[Filed 6/7/79, Notice 5/2/79—published 6/27/79, effective 8/2/79]
[Filed 4/1/88, Notice 9/23/87—published 4/20/88, effective 5/25/88]
[Filed 11/2/06, Notice 9/13/06—published 11/22/06, effective 1/1/07]
[Filed ARC 0219C (Notice ARC 0098C, IAB 4/18/12), IAB 7/25/12, effective 9/1/12]

CHAPTERS 151 to 155
Reserved

CHAPTER 156
DNA DATABASE

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—156.1(81) Establishment of DNA database. There is established a DNA database within the division of criminal investigation criminalistics laboratory.

These rules govern the administration of the DNA database and the collection, submission, analysis, identification, storage, disposition, and expungement of DNA records gathered for the DNA database. These rules do not apply to the collection and handling of DNA samples gathered as evidence in the course of criminal investigations.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.2(81) Definitions. The following definitions apply to rules 661—156.1(81) through 661—156.10(81):

"Administrator" means the administrator of the division of criminal investigation criminalistics laboratory.

"Commissioner" means the commissioner of public safety.

"Database" means the DNA database located in the division of criminal investigation criminalistics laboratory.

"Department" means the Iowa department of public safety.

"Director" means the director of the division of criminal investigation.

"Division" means the division of criminal investigation (DCI).

"DNA" means deoxyribonucleic acid.

"Expungement" means the removal of information from the DNA database, effectively severing any ability to link a DNA profile and an individual.

"Laboratory" means the division of criminal investigation criminalistics laboratory.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.3(81) Administration of DNA database. The DNA database shall be under the direct supervision of a supervising criminalist employed by the laboratory and designated by the administrator.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.4(81) Collection of DNA samples. Samples of DNA shall be collected from any person required to submit a sample pursuant to the provisions of 2005 Iowa Acts, House File 619.

156.4(1) The sample shall be collected by the agency to which custody or responsibility for supervision has been assigned by the court issuing the sentencing order.

156.4(2) Each DNA sample shall be collected as soon as practical after an agency assumes custody or supervision of the person required to submit the DNA sample and shall be submitted to the laboratory in accordance with rule 661—156.5(81).

156.4(3) Each DNA sample shall be collected using a DNA collection kit provided by the laboratory, following the instructions provided for the kit by the laboratory.

Exception:

A DNA sample may be collected without the use of a DNA collection kit provided by the laboratory. If a sample is collected without the use of a kit, the person submitting the sample shall include a signed and dated statement describing the collection procedure.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.5(81) Submission of DNA samples.

156.5(1) All samples collected for inclusion in the DNA database should be submitted to the following address:

Iowa DCI Criminalistics Laboratory
2240 S. Ankeny Boulevard
Ankeny, Iowa 50023-9093

Exception:

Each sample submitted in a package with a preprinted mailing address or with a mailing label with a preprinted address, when such package or label has been provided by the Division of Criminal Investigation Criminalistics Laboratory, shall be mailed to the preprinted address. Any other sample shall be mailed in accordance with instructions provided by the Division of Criminal Investigation Criminalistics Laboratory.

156.5(2) Each sample submitted shall be accompanied by a completed DNA sample donor identification form included in the DNA collection kit provided by the laboratory. If the sample is submitted without the donor identification form, the sample shall be accompanied by a statement signed and dated by the person submitting it, with at least the following information identifying the subject of the DNA sample: full name, date of birth, and a clear fingerprint. Additional identifying information, such as the social security number of the person providing the sample or identifying numbers assigned by state agencies, shall be provided if available.

[Editorial change: IAC Supplement 6/17/09; **ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.6(81) Analysis of DNA samples. Samples of DNA submitted to the laboratory shall be analyzed by laboratory personnel and the results of the analysis entered into the database in accordance with the provisions of "Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories," published by the DNA Advisory Board to the Federal Bureau of Investigation, September 1, 2011.

Exception:

Analysis of DNA samples may be conducted by other laboratories under contract with the department, with the approval of the administrator. Any other laboratory conducting analysis of DNA samples for inclusion in the database shall comply with the requirements and procedures to which the division of criminal investigation criminalistics laboratory is subject under this rule.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.7(81) Identification of DNA samples. Each sample of DNA submitted for inclusion in the database shall be identified by a unique number that will reference the full name of the person whose sample is submitted, the person's date of birth, and a clear fingerprint taken from the person.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.8(81) Storage of DNA samples. Samples of DNA submitted for inclusion in the database shall be stored under normal office conditions.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12]

661—156.9(81GA,HF619) Disposition of DNA samples. Rescinded **ARC 0219C**, IAB 7/25/12, effective 9/1/12.

661—156.10(81) Expungement of DNA samples.

156.10(1) A person whose DNA record has been included in the database may request expungement of the DNA record from the database based upon the reversal on appeal or dismissal of the case of the person's conviction, adjudication, or civil commitment that caused the submission of the DNA sample. The request shall be in writing and shall include a certified copy of the final court order reversing the conviction, adjudication, or civil commitment; a certified copy of the dismissal; and any other information necessary to ascertain the validity of the request. The request shall clearly state that it is a request to expunge a record from the DNA database and shall state the specific basis for the request.

A request to expunge the DNA record shall be addressed as follows:

Administrator
Iowa DCI Criminalistics Laboratory
2240 S. Ankeny Boulevard
Ankeny, Iowa 50023-9093

156.10(2) Action on expungement request.

a. The laboratory, upon receipt of a written request that validates reversal on appeal of a person's conviction, adjudication, or commitment, and subsequent dismissal of the case, or upon receipt of a

written request by a person who voluntarily submitted a DNA sample pursuant to Iowa Code section 81.3, subsection 3, paragraph *"b,"* shall expunge all of the DNA records and identifiable information of the person in the database. The person or the person's representative shall be notified upon completion of such action.

b. If the division determines that the person is otherwise obligated to submit a DNA sample, the DNA record shall not be expunged.

c. If the division denies an expungement request, the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting the decision. A person whose request to expunge a DNA record from the database is denied may appeal that decision to the commissioner within 30 days of the date of the letter communicating the denial. Appeals shall be treated as requests for contested case proceedings, and such proceedings shall be subject to the provisions of rules 661—10.301(17A) through 661—10.332(17A), except that such requests shall be addressed as follows:

Commissioner, Iowa Department of Public Safety
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319

156.10(3) A DNA record shall not be expunged pursuant to this rule if expungement or destruction of the DNA record would destroy evidence related to another person.

[Editorial change: IAC Supplement 6/17/09; **ARC 0219C**, IAB 7/25/12, effective 9/1/12]

These rules are intended to implement 2005 Iowa Acts, House File 619, division I.

[Filed emergency 6/30/05—published 7/20/05, effective 7/1/05]
[Filed 11/3/05, Notice 7/20/05—published 11/23/05, effective 1/1/06]
[Editorial change: IAC Supplement 6/17/09]
[Filed ARC 0219C (Notice ARC 0098C, IAB 4/18/12), IAB 7/25/12, effective 9/1/12]

CHAPTER 157
DEVICES AND METHODS TO TEST BODY FLUIDS FOR ALCOHOL OR DRUGS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—157.1(321J) Approval of devices and methods to test for alcohol or drug concentration. The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

661—157.2(321J) Evidentiary breath testing.

157.2(1) A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

157.2(3) The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or on the website of the department of public safety.

157.2(4) The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's website.

157.2(5) All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

[**ARC 7529B**, IAB 1/28/09, effective 4/1/09; **ARC 0219C**, IAB 7/25/12, effective 9/1/12; **ARC 5407C**, IAB 1/27/21, effective 3/3/21]

661—157.3(321J) Urine collection. A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

157.3(1) The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(2) As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container which is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

157.3(3) The peace officer shall collect a second urine void for alcohol testing in a suitable container which is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

157.3(4) When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

157.3(5) A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the criminalistics laboratory website. Any peace officer wishing to use a test kit which is not listed should inquire of the criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory website is: dps.iowa.gov/divisions/criminal-investigation/criminalistics-laboratory/toxicology.

157.3(6) If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the Iowa division of criminal investigation criminalistics laboratory.

157.3(7) The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

661—157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory. Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

661—157.5(321J) Preliminary breath screening test.

157.5(1) A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the website of the department.

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

a. The identity of the person performing the calibration.

b. The date.

c. The value of standard used.

d. The unit type and identification number.

e. The expiration date of the standard used.

[**ARC 5407C**, IAB 1/27/21, effective 3/3/21]

661—157.6(123) Chemical test—alcohol concentration—public intoxication. All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) *Adoption of federal standards.* Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 82 FR 7920, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, codeine/morphine, hydrocodone/hydromorphone, oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Initial test analyte	Initial test cutoff1
Marijuana metabolites (THCA)2	50 ng/ml3
Cocaine metabolites (Benzoylecgonine)	150 ng/ml3
Codeine/Morphine	2000 ng/ml
Hydrocodone/Hydromorphone	300 ng/ml
Oxycodone/Oxymorphone	100 ng/ml
6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml
Amphetamine/Methamphetamine	500 ng/ml
MDMA4/MDA5	500 ng/ml

1 For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

2 An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

3 *Alternate technology* (THCA and benzoylecgonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylecgonine).

4 Methylenedioxymethamphetamine (MDMA).

5 Methylenedioxyamphetamine (MDA).

157.7(2) Reserved.

[**ARC 0219C**, IAB 7/25/12, effective 9/1/12; **ARC 5407C**, IAB 1/27/21, effective 3/3/21]

These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

[Filed 4/2/07, Notice 9/13/06—published 4/25/07, effective 6/1/07]

[Filed emergency 12/21/07—published 1/16/08, effective 1/1/08]

[Filed ARC 7529B (Notice ARC 7020B, IAB 7/30/08), IAB 1/28/09, effective 4/1/09]

[Filed ARC 0219C (Notice ARC 0098C, IAB 4/18/12), IAB 7/25/12, effective 9/1/12]

[Filed ARC 5407C (Notice ARC 5295C, IAB 12/2/20), IAB 1/27/21, effective 3/3/21]

CHAPTER 158
IGNITION INTERLOCK DEVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—158.1(321J) Scope and authority.

158.1(1) The rules in this chapter establish standards and requirements that apply to ignition interlock devices installed in motor vehicles pursuant to court orders or administrative orders issued by the department of transportation pursuant to Iowa Code chapter 321J.

158.1(2) Various sections of Iowa Code chapter 321J require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to have ignition interlock devices "of a type approved by the commissioner of public safety" installed on their vehicles in order to continue to drive legally. The rules in this chapter provide the standards for such approval.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.2(321J) Definitions. The following definitions apply to rules 661—158.1(321J) through 661—158.9(321J):

"Alcohol" means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

"Authorized service provider" or *"ASP"* means a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate IIDs approved pursuant to this chapter.

"Breath alcohol concentration" or *"BrAC"* means the amount of alcohol determined by chemical analysis of the individual's breath measured in grams of alcohol per 210 liters of breath.

"Bypassing" or *"tampering"* means the attempted or successful circumvention of the proper functioning of an IID including, but not limited to, the push start of a vehicle equipped with an IID, disabling, disconnecting or altering an IID, or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

"DCI" means the Iowa division of criminal investigation.

"DOT" means Iowa department of transportation, office of driver services.

"Fail level" means a BrAC equal to or greater than 0.025 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

"Ignition interlock device" or *"IID"* means an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.025 grams or greater per 210 liters of breath, the vehicle shall be prevented from starting.

"Laboratory" means the division of criminal investigation criminalistics laboratory.

"Lessee" means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID and whose driving privileges are contingent on the use of an IID.

"Lockout condition" means a situation in which a proper breath sample was not provided to an IID when required, or when a random retest results in an alcohol concentration equal to or greater than 0.025 BrAC. Once a lockout condition occurs, the IID shall be reset by the manufacturer or the ASP within five days, or the IID shall render the vehicle ignition incapable of starting the vehicle.

"Manufacturer" means the person, company, or corporation that produced the IID.

"Random retest" means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

"User" means a person operating a vehicle equipped with an IID.

"Violation" means a condition caused by either (1) failure to provide a proper breath sample to the IID during a random retest, (2) the IID indicating a concentration exceeding the maximum allowable concentration of 0.025 BrAC during a random retest, or (3) the IID indicating that bypassing the device or tampering with the device occurred or was attempted.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.3(321J) Approval. To be approved, an IID shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published in the Federal Register, April 7, 1992, pages 11772-11787. Only a notarized statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) In addition to the federal standards, the DCI criminalistics laboratory shall apply scientific tests or methods to a particular IID to determine whether it meets an acceptable standard for accuracy.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public laboratories or authorities.

158.3(3) The laboratory shall maintain a list of IIDs approved by the commissioner of public safety. The list is available without cost by writing to the Iowa Department of Public Safety, Division of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Blvd., Ankeny, Iowa 50023; by telephoning (515)725-1500; or by accessing the list on the laboratory's Web site.

NOTE: As of October 1, 2009, the Web site of the laboratory is http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml.

158.3(4) On or after January 1, 2010, any IID installed in a vehicle in Iowa pursuant to this chapter, including a replacement for a device previously installed, shall utilize fuel cell technology. Any device installed prior to January 1, 2010, may continue to be used until the expiration of the order that resulted in its use or until it is replaced, whichever occurs earlier.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.4(321J) Revocation of approval. The approval of an IID shall remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause. Reasons for revocation include but are not limited to the following.

158.4(1) Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, monitoring, or calibration of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

158.4(2) A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

158.4(3) A pattern of evidence indicating that the IID may be easily tampered with or bypassed.

158.4(4) Any violation on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and calibration of IIDs, or failure of a manufacturer to address repeated violations by an ASP.

158.4(5) Cancellation of the manufacturer's required liability insurance coverage.

158.4(6) Cessation of business operations by the manufacturer.

158.4(7) Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

158.4(8) Failure of the manufacturer or an ASP to notify the DOT and the county attorney of the county of residence of the lessee within 30 days of the discovery of evidence of tampering with or attempting to bypass an IID.

158.4(9) Evidence that the manufacturer or ASP(s), or its owners, employees, or agents, has committed any act of theft or fraud, deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

158.4(10) Revocation of approval in another state for any of the reasons for revocation listed in subrules 158.4(1) through 158.4(9).

158.4(11) A revocation shall be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless otherwise specified by the commissioner. A copy of each notice of revocation shall be provided to the director of the Iowa department of transportation.

158.4(12) Upon voluntary surrender or revocation, all IIDs subject to the surrender or revocation shall be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP must notify all affected lessees of the surrender or revocation and

the requirement that a new IID must be installed by an existing ASP within the time frame specified in this subrule.

158.4(13) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.5(321J) Modifications to an approved IID. The manufacturer shall inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification shall include, but not be limited to, a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of these changes should also include a narrative explaining how the modifications or alterations will affect the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID shall comply with the following.

158.6(1) The IID shall be designed and constructed to measure a person's breath alcohol concentration by utilizing a sample of the person's breath delivered directly into the IID.

158.6(2) The IID shall be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the breath alcohol concentration of the person using the IID exceeds 0.025 BrAC.

158.6(3) The IID shall prevent engine ignition if the IID has not been calibrated within 67 days subsequent to the last calibration. Calibration may be required more frequently at the discretion of the manufacturer or the ASP.

Exception:

The laboratory administrator may approve a device using fuel cell technology to be recalibrated within 187 days of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator.

158.6(4) The IID shall record every instance when the vehicle is started, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with or bypassed.

158.6(5) The IID shall require the operator to submit to a random retest within 10 minutes of starting the vehicle. A minimum of two additional random retests shall occur within 60 minutes of starting the vehicle, and a minimum of two random retests shall occur within every 60 minutes thereafter. Random retests may be achieved during operation of the vehicle. The IID shall enter a lockout condition within five days if two or more violations are recorded in a single monitoring period. An IID may, at the discretion of the manufacturer or the ASP, enter a lockout condition on the basis of a single violation.

158.6(6) The IID shall permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator must successfully perform a breath sample test before the vehicle may be restarted.

158.6(7) The IID shall automatically and completely purge residual alcohol before allowing subsequent tests.

158.6(8) The IID shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after the vehicle has been started.

158.6(9) The IID shall be equipped with a method of immediately notifying peace officers if the retest required by subrule 158.6(5) is not performed or if the result of a random retest exceeds the alcohol concentration of 0.025 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn and repeated flashing of the vehicle's headlights. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below 0.025 BrAC.

158.6(10) Each IID shall be uniquely identified by a serial number. Along with any other information required by the DOT or by an originating court, all reports to the DOT or to an originating court concerning a particular IID shall include the name, address, and driver's license number of the lessee and the unique serial number of the IID. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report shall also be included as part of the report.
[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.7(321J) IID security. The manufacturer and its ASPs shall take all reasonable steps necessary to prevent tampering with or physical circumvention of the IID. These steps shall include the following.

158.7(1) ASPs shall use special locks, seals, installation procedures, or design characteristics that prevent or record evidence of tampering or circumvention attempts.

158.7(2) The manufacturer or the ASP shall affix a label to the IID indicating that attempts to tamper with or circumvent the IID may subject a person to criminal prosecution or administrative sanctions.

158.7(3) No owner or employee of a manufacturer or an ASP may authorize or assist with the disconnection of an IID or enable the use of any emergency bypass mechanism or any other bypass procedure that allows a person restricted to the use of a vehicle equipped with a functioning IID to start or operate a vehicle without providing all required breath samples. Authorizing or assisting with the disconnection of an IID may subject the owner or employee of a manufacturer or an ASP to criminal prosecution or administrative sanctions.
[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter shall have the calibration checked and shall be recalibrated at least once every 60 days using either a wet bath simulator or dry gas standard. Calibration shall be completed by the manufacturer or the ASP. In lieu of calibration of an installed IID, an installed IID may be exchanged for another calibrated IID. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous calibration, provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. An IID shall automatically enter a lockout condition if the IID has not been calibrated within 7 days after the deadlines established in this subrule.

158.8(2) The calibration record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle shall be maintained by the manufacturer or the ASP. The record shall include the following:

a. Name of the person performing the calibration;
b. Date;
c. Value and type of standard used;
d. Batch or lot number of standard;
e. Unit type and identification number of the IID; and
f. Description of the vehicle in which the IID is installed, including:
(1) Registration plate number and state;
(2) Make;
(3) Model;
(4) Vehicle identification number;
(5) Year; and
(6) Color.

158.8(3) The IID must be calibrated for accuracy according to the manufacturer's procedures. All data contained in the IID's memory must be downloaded, and the manufacturer or the ASP shall make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination.

158.8(4) All information obtained as a result of each inspection shall be retained by the manufacturer or the ASP for five years from the date the IID is removed from the vehicle.

158.8(5) Any manufacturer or ASP who discovers evidence of tampering with or attempting to bypass an IID shall, within 30 days of the discovery, notify the DOT and the county attorney of the county of residence of the lessee of that evidence.

158.8(6) The manufacturer or the ASP must provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI.

158.8(7) The manufacturer or the ASP shall notify the DOT within 10 days if an IID is not calibrated within the time period specified in subrule 158.6(3).

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, shall comply with the following provisions.

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter shall maintain general liability insurance coverage that is effective in Iowa and that has been issued by an insurance carrier authorized to operate in Iowa by the Iowa division of insurance in an amount of not less than $1 million per occurrence and $3 million in the aggregate. Each manufacturer and ASP shall furnish the DCI with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule shall carry an endorsement requiring that the DCI be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

158.9(2) Each manufacturer and ASP of IIDs approved for use in Iowa shall maintain an E-mail address and a telephone number that are available 24 hours a day, 365 days a year, for lessees or users to contact the manufacturer or the ASP if lessees or users have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer and ASP of IIDs approved for use in Iowa shall provide the lessee with instructions on how to properly use the IID. The instructions shall include recommending a 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the IID.

158.9(4) An IID utilized under these rules shall be installed and removed by the manufacturer or the ASP in conformance with the prescribed procedures of the manufacturer.

158.9(5) The department of public safety reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, results of calibrations, violations, data logs, and results of known alcohol standards shall be made available for inspection upon request to any representatives of the department of public safety, the department of transportation, or any peace officer.

[**ARC 7887B**, IAB 7/1/09, effective 10/1/09]

These rules are intended to implement Iowa Code chapter 321J.

[Filed ARC 7887B (Notice ARC 7566B, IAB 2/11/09), IAB 7/1/09, effective 10/1/09]

CHAPTER 159
STATEWIDE SOBRIETY AND DRUG MONITORING PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—159.1(901D) Program created. The statewide sobriety and drug monitoring program, also referred to as the "24/7 program," is established in the department of public safety for use by participating jurisdictions. The program shall be available at least twice per day during hours designated by the law enforcement agency, seven days per week in the participating jurisdictions. Participation in or use of the 24/7 program is a voluntary decision of a participating jurisdiction. A participating jurisdiction cannot be required to participate in or to continue to participate in the 24/7 program.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.2 to **159.9** Reserved.

661—159.10(901D) Definitions. The following definitions apply to this chapter:

"Alcohol" means an alcoholic beverage as defined in Iowa Code section 321J.1.

"Commissioner" means the commissioner of public safety as defined in Iowa Code section 80.1A.

"Controlled substance" means the same as defined in Iowa Code section 124.101.

"Department" means the department of public safety.

"Eligible offense" means a criminal offense in which the abuse of alcohol or a controlled substance was a contributing factor in the commission of the offense, as determined by the court or a governmental entity of the participating jurisdiction. For purposes of operating while intoxicated offenses committed in violation of Iowa Code section 321J.2, "eligible offense" includes only the following offenses:

1. A first offense in which the person's alcohol concentration exceeded .15.
2. A first offense in which an accident resulting in personal injury or property damage occurred.
3. A first offense in which the person refused to submit to a chemical test requested pursuant to Iowa Code section 321J.6.
4. A second or subsequent offense.

"Failed test" means any of the following:

1. A test or combination of tests that shows the presence of alcohol, a controlled substance, a combination of alcohol and one or more controlled substances, or a combination of two or more controlled substances, if any of the controlled substances are not prescribed by a health care provider or are not used in accordance with the health care provider's written instructions.
2. A failure or refusal to submit to testing, including but not limited to the nonpayment of the required fee.
3. Incomplete testing or results that indicate efforts to tamper with or interfere with the test or with valid test results, whether or not those efforts are successful.
4. Failure to appear to submit to testing.

"Immediate sanction" means a sanction that is applied within minutes of a failed test result.

"Law enforcement agency" means a sheriff's office or city police department that has been approved to administer, implement and enforce the statewide sobriety and drug monitoring program established in Iowa Code chapter 901D for the participating jurisdiction.

"Participating jurisdiction" means a county or a city that chooses to participate in the statewide sobriety and drug monitoring program and that has been approved for participation by the department.

"Sobriety and drug monitoring program" or *"24/7 program"* means the statewide sobriety and drug monitoring program established in Iowa Code chapter 901D.

"Test" or *"testing"* means a procedure or set of procedures performed using equipment, devices and methods approved by the commissioner to determine the presence of alcohol or a controlled substance in a person's breath or bodily fluid, including blood, urine, saliva, and perspiration, and includes any combination of breath testing, drug patch testing, urine analysis testing, saliva testing, and continuous or transdermal alcohol monitoring.

"Timely sanction" means a sanction that is applied within hours or days after a failed test result. A timely sanction shall be applied as soon as possible, but the period between the failed test result and the application of the timely sanction shall not exceed five days.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.11(901D) Participating jurisdiction requirements.

159.11(1) *Program requirements.* As a participating jurisdiction of the 24/7 program, the participating jurisdiction shall:

a. Designate the law enforcement agency or third-party provider that will administer, implement and enforce the 24/7 program. More than one law enforcement agency or third-party provider may be designated.

b. Provide one or more locations for testing persons who are participating in the 24/7 program for the presence of alcohol or a controlled substance.

c. Ensure that each designated location is available at least twice per day, seven days per week for persons to be tested, during hours designated by the law enforcement agency.

d. Ensure that personnel who administer tests and collect bodily specimens for testing at the location have all required training and certifications to use or operate the testing equipment or devices.

e. Provide testing equipment and devices.

f. Designate the law enforcement agency that will be responsible to collect program fees from persons subject to testing and use program fees to pay for the participating jurisdiction's costs to administer the program and purchase or maintain testing equipment and devices.

g. Provide for and apply immediate sanctions for failed tests.

h. Provide for and apply timely sanctions for failed tests.

i. Provide test results to the court, prosecutor, and person's attorney and also provide test results and other required program information to the program data management system.

j. Provide for one or more alternative testing methods, if such methods have been approved by the commissioner, in cases of persons for whom testing at least twice per day creates a documented hardship or is geographically impractical.

k. Designate the law enforcement agency to establish and maintain a 24/7 program account, place all program fees collected into the account and use the funds in the account only for the purposes of administering and operating the 24/7 program, including but not limited to paying for the services of a third-party provider. The funds in the account shall be considered public funds and shall be subject to the rules and policies of the state auditor's office.

l. Establish a program that is administered by the law enforcement agency to accept public or private grant funds, gifts, or donations and use the funds received to support program activities, including but not limited to the payment of fees for indigent persons. The funds collected under this program shall be deposited and held in the 24/7 program account.

m. Provide reports to the department as required.

n. Ensure that an audit of the 24/7 program account is conducted at least annually and make the audit report available to the department upon request.

o. Maintain sufficient security protocols to protect the personal information of persons subject to testing from unauthorized use.

p. Be approved by the department as a participating jurisdiction.

159.11(2) *Third-party provider.* A participating jurisdiction may designate a third-party provider to provide testing services as described in subrule 159.11(1), except, that the third-party provider shall not provide any of the requirements in paragraphs 159.11(1)*"f," "g," "h," "k,"* and *"l."* The department shall review any third-party provider designated by the participating jurisdiction as a part of the application process. A third-party provider must be approved by the department before providing any service of the 24/7 program.

159.11(3) *Application.* A county or city that desires to become a participating jurisdiction shall submit an application to the department. The application shall be made on a form provided by the department, which is available at www.dps.state.ia.us/commis/gtsb/index.shtml. The department shall

notify the participating jurisdiction whether it has been approved to participate in the 24/7 program. Approval shall be in the sole discretion of the department.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.12(901D) Participant requirements.

159.12(1) *Requirements.* A person subject to testing in the 24/7 program is required to do all of the following:

a. Abstain from all alcohol and controlled substances while enrolled in the program. If a person has been issued a prescription for a controlled substance, the person may participate in the 24/7 program and continue to take the prescribed controlled substance only with the health care provider's approval and in accordance with the health care provider's written instructions.

b. Submit to testing as required to determine whether alcohol or a controlled substance is present in the person's body.

c. Participate in the 24/7 program when ordered as a condition of bond, pretrial release, sentence, probation, or parole.

d. Sign all forms, waivers and releases and provide all required information that is necessary for participation in the program to enable the testing to occur and the test results to be reported, disseminated and used as required by the 24/7 program, including but not limited to providing testing information to the county attorney, person's attorney, court or parole or probation officer as appropriate.

e. Obtain a temporary restricted license when eligible, if the person's driver's license is suspended or revoked.

f. Unless otherwise ordered by the court, install an approved ignition interlock device on all motor vehicles owned or operated by the person if the person's driver's license is suspended or revoked or as is otherwise required by Iowa Code section 321J.17, and in any circumstance in which Iowa Code chapter 321J requires the installation of an ignition interlock device.

g. Pay all program fees, including but not limited to the enrollment fee; the costs of tests, test equipment or test devices; and the costs of installing, activating, monitoring, and deactivating any testing equipment or devices.

h. Agree to be subject to immediate sanctions or timely sanctions, as applicable, for noncompliance with the 24/7 program requirements.

159.12(2) Reserved.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18; **ARC 5716C**, IAB 6/16/21, effective 7/21/21]

661—159.13 to **159.19** Reserved.

661—159.20(901D) Testing.

159.20(1) *Methods.* The following methods and procedures shall be used to collect samples or perform testing to determine the presence of alcohol or a controlled substance in the person's breath or bodily fluid.

a. Evidentiary breath testing devices and methods as described in rule 661—157.2(321J).

b. Preliminary breath screening test devices and methods as described in rule 661—157.5(321J).

c. Urine collection methods and equipment as described in rule 661—157.3(321J).

d. The SCRAM® continuous alcohol monitoring or remote breath device.

159.20(2) *Other devices and methods.* Scientifically established tests or methods appropriate to a particular device shall be used in determining whether an alternative device or method meets an acceptable standard for operation, including accuracy. The department may, in its discretion, accept test results from another laboratory. The commissioner may consider all other factors in addition to scientific testing and accuracy, including but not limited to cost, availability, and training in determining whether or not to approve a method or device. Approval of other devices or methods is in the sole discretion of the commissioner.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.21 to **159.29** Reserved.

661—159.30(901D) Program fees.

159.30(1) *Enrollment fee.* A person subject to testing shall pay an enrollment fee of $30 for each enrollment in the program. A person may be ordered or required to enroll in the program more than once, and the enrollment fee is required for each enrollment.

159.30(2) *Fees for tests.*

a. A person subject to testing shall pay all fees associated with the testing. The following fees are established:

(1) For breath test, $2 per test.

(2) For a urine test, $6 per test.

(3) For a SCRAM® continuous alcohol monitoring or remote breath device, an installation fee of $30 and a fee of $7 per day.

b. The law enforcement agency shall inform a person subject to testing of each applicable test fee.

159.30(3) *Payment of fees.* A person subject to testing shall pay the fee for each test before taking the test. The law enforcement agency may, but shall not be required to, administer the test if the person subject to testing does not pay the fee for the test. For the device(s) approved for use in cases where twice-a-day testing creates a documented hardship or is geographically impracticable, the fee for two weeks' use of the device shall be paid prior to the installation of the device on the person. The person shall appear at the law enforcement agency a minimum of once per week according to the agency's instructions for the use of the device and shall pay each week's fee in advance. Failure to pay the required test fee may subject the person to immediate sanctions or timely sanctions. Community service or other in-kind payment is not authorized as a substitute for payment of the required fees. For a person who has been determined to be indigent or who is only able to pay a portion of the fee, the fees shall be paid from the 24/7 program account to the extent that funds are available.

[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.31 to **159.39** Reserved.

661—159.40(901D) Fees—indigent participants. A person subject to testing is required to pay the full fee for each test. The fees are established at the minimum level needed to purchase supplies and equipment and to cover the costs of administering the program.

159.40(1) *Determination of indigency.* A person subject to testing who requests a determination of indigency for purposes of the 24/7 program shall provide all requested financial information. An application for court-appointed counsel may be considered and used in determining whether a person is indigent. A finding of indigency by the court for purposes of determining whether a person should receive court-appointed counsel does not constitute a final determination of indigency for purposes of the 24/7 program. In determining indigency, all relevant information may be considered, including but not limited to income, assets, other sources of support, barter or in-kind payments, and expenditures including but not limited to expenditures for nonessential or luxury items.

159.40(2) *Payment of indigent fees.*

a. If a person subject to testing is determined to be indigent and is reasonably able to pay a portion of the required fee for testing but is not able to pay the full fee amount, the person shall pay only the portion of the fee which the person is reasonably able to pay. The law enforcement agency shall authorize payment of the remaining fee out of the 24/7 program funds, including but not limited to funds received from public or private grants, gifts or donations, if such funds have been received and there are funds remaining after paying the costs for testing supplies and devices and the costs to administer the program.

b. If a person subject to testing is determined to be indigent and is not reasonably able to pay any part of the required fee for testing, the law enforcement agency shall authorize the payment of the fee out of the 24/7 program funds, including but not limited to funds received from public or private grants, gifts or donations, if such funds have been received and there are funds remaining after paying the costs for testing supplies and devices and the costs to administer the program.

c. The participating jurisdiction, including the designated law enforcement agency or third-party provider, is not required to provide unpaid or free testing at the jurisdiction's, agency's or provider's expense if there are not sufficient funds in the 24/7 program account. The participating jurisdiction or

law enforcement agency shall first use the funds in the 24/7 program account to pay for the participating jurisdiction's costs to administer the program and purchase, rent, or maintain testing equipment and devices and then use any remaining funds to pay fees for indigent participants.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.41 to **159.49** Reserved.

661—159.50(901D) Stakeholder group. The department hereby establishes a stakeholder group for the 24/7 program. The designated stakeholder group for the 24/7 program shall be the Iowa impaired driving coalition. Representatives of other public or private groups may request to be added to the 24/7 program stakeholder group.

159.50(1) *Duties.* The 24/7 program stakeholder group shall act as an advisory group to the department and the governor's traffic safety bureau. The stakeholder group shall review the 24/7 program and recommend changes to the governor's traffic safety bureau.

159.50(2) *Meetings.* The 24/7 program stakeholder group shall meet as requested by the bureau chief of the governor's traffic safety bureau. Notice of the stakeholder meetings shall be provided as required by Iowa Code chapter 21. Records of the stakeholder group shall be subject to the provisions of Iowa Code chapter 22.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

661—159.51 to **159.59** Reserved.

661—159.60(901D) Grant program established. The department authorizes each participating jurisdiction to create a grant program account for the purpose of accepting public and private grant funds, gifts and donations to support the 24/7 program of the participating jurisdiction. The funds in the account shall be considered public funds and shall be subject to the rules and policies of the state auditor's office.
[**ARC 4010C**, IAB 9/26/18, effective 10/8/18]

These rules are intended to implement Iowa Code chapter 901D.

[Filed Emergency After Notice ARC 4010C (Notice ARC 3628C, IAB 2/14/18), IAB 9/26/18, effective 10/8/18]

[Filed ARC 5716C (Notice ARC 5558C, IAB 4/21/21), IAB 6/16/21, effective 7/21/21]

CHAPTERS 160 to 173
Reserved

CHAPTER 174
RETAIL SALES OF PSEUDOEPHEDRINE

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—174.1(81GA,SF169) Electronic logbooks. A logbook of retail sales of products containing pseudoephedrine, as required in 2005 Iowa Acts, Senate File 169, may be recorded in any electronic format, provided that the retailer maintaining the logbook provides to any peace officer a printed copy of the information required to be maintained in the same manner as would be provided if the logbook were maintained on paper.

NOTE 1: Information required to be recorded in the logbook includes the legible signature of the purchaser and the printed name and address of the purchaser.

NOTE 2: This rule applies only to the content of the information provided to a peace officer from a logbook, not to the conditions or circumstances under which information from a logbook is provided to a peace officer.

661—174.2(81GA,SF169) Reporting of civil penalties. Within 30 days of the assessment of a civil penalty upon a retailer or employee of a retailer of products containing pseudoephedrine for a violation of the provisions of 2005 Iowa Acts, Senate File 169, the city or county which has enforced the civil penalty shall report the following information to the Director, Iowa Division of Narcotics Enforcement, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319:

1. Name and address of the retailer.
2. Name and birth date of the employee, if the civil penalty was assessed against an employee. If the assessment was against more than one employee, the name and birth date of each employee subject to the assessment shall be reported.
3. Date of the violation.
4. Description of the violation.
5. Amount of the civil penalty assessed.

These rules are intended to implement 2005 Iowa Acts, Senate File 169.

[Filed emergency 5/18/05—published 6/8/05, effective 5/21/05]
[Filed 11/3/05, Notice 6/8/05—published 11/23/05, effective 1/1/06]

CHAPTERS 175 to 199
Reserved

CHAPTER 200
FIRE MARSHAL ADMINISTRATION
[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department [680] Ch 5]
[Prior to 11/18/09, see 661—Ch 5]
Rescinded **ARC 9472C**, IAB 8/6/25, effective 9/10/25

CHAPTER 201
FIRE CONTROL ADMINISTRATION
Transferred to 481—Chapter 280, IAC Supplement 11/26/25

CHAPTER 202
REQUIREMENTS FOR SPECIFIC OCCUPANCIES
Rescinded **ARC 9472C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 203 and 204
Reserved

CHAPTER 205
FIRE SAFETY REQUIREMENTS FOR HOSPITALS AND
HEALTH CARE FACILITIES
[Prior to 4/2/03, see rules 661—5.550(100) to 661—5.603(100)]
[Prior to 6/22/05, see rules 661—5.900(100) to 661—5.950(135C)]
Rescinded **ARC 9472C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 206 to 209
Reserved

CHAPTER 210
SMOKE ALARMS/DETECTORS
Rescinded **ARC 9472C**, IAB 8/6/25, effective 9/10/25

CHAPTER 211
CARBON MONOXIDE ALARMS
Rescinded **ARC 9472C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 212 to 220
Reserved

CHAPTER 221
FLAMMABLE OR COMBUSTIBLE LIQUIDS
Transferred to 481—Chapter 282, IAC Supplement 7/9/25

CHAPTERS 222 and 223
Reserved

CHAPTER 224
ABOVEGROUND FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS
Rescinded **ARC 9181C**, IAB 4/30/25, effective 6/4/25

CHAPTER 225
Reserved

CHAPTER 226
LIQUEFIED PETROLEUM GAS
[Prior to 5/23/07, see rules 661—51.100(101) to 661—51.102(101)]
Transferred to 481—Chapter 286, IAC Supplement 7/9/25

CHAPTER 227
Reserved

CHAPTER 228
LIQUEFIED NATURAL GAS
[Prior to 12/14/11, see 661—Ch 51]
Transferred to 481—Chapter 288, IAC Supplement 7/9/25

CHAPTERS 229 and 230
Reserved

CHAPTER 231
MANUFACTURING, STORAGE, HANDLING, USE OF EXPLOSIVE MATERIALS,
AND LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS
Transferred to 481—Chapter 268, IAC Supplement 7/9/25

CHAPTERS 232 to 234
Reserved

CHAPTER 235
LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS
[Prior to 11/18/09, see 661—Ch 5]
Rescinded **ARC 8912C**, IAB 2/19/25, effective 3/26/25

CHAPTERS 236 to 250
Reserved

CHAPTER 251
FIREFIGHTER TRAINING AND CERTIFICATION

[Prior to 9/29/04, see 661—Ch 54]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/11/31

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) through 661—251.204(100B):

"Emergency incident" means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

"NFPA" means the National Fire Protection Association.

"Structural firefighting" means firefighting in a hazardous environment that requires the use of self-contained breathing apparatus.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.2 to **251.100** Reserved.

MINIMUM TRAINING STANDARDS

661—251.101(100B) Minimum training standard. Any member of a fire department will have completed the training requirements identified in the job performance requirements for the firefighter I classification in NFPA 1010 – 2024 edition, Standard on Professional Qualifications for Fire Fighters, based on the current edition adopted by the fire service training bureau, prior to the member's engaging in structural firefighting. Each fire department will identify its members who are or will be engaged in structural firefighting and ensure that any member engaged in structural firefighting has completed the training requirements specified in this rule prior to the member's engaging in structural firefighting.

NOTE: A firefighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, a local fire department, or any combination thereof.

EXCEPTION 1: A firefighter who received training that complied with the job performance requirements for the firefighter I classification contained in an earlier edition of NFPA 1001 is deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the state fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural firefighting. Any such extension will be for one year and may be renewed annually upon application. An extension will be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the firefighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the firefighters in the department. The application is to be in a form specified by the state fire marshal and will list by name each firefighter for whom an extension is requested. The extension, if granted, will list by name the firefighters to whom the extension applies and will apply only to those listed.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural firefighting at an emergency incident will have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.103(100B) Continuing training. Fire department members will participate in at least 24 hours of continuing training annually, which may include but is not limited to the following subject matter areas:

1. Personal protective equipment and respiratory protection.
2. Structural firefighting techniques, including standard operating policies and procedures or standard operating guidelines.
3. Ground ladders.
4. Hose and hose appliances.
5. Ventilation.
6. Forcible entry.
7. Search and rescue techniques.
8. Firefighter safety.
9. National Incident Management System or Incident Command System.
10. Emergency vehicle driver-operator.
11. Hazardous materials first responder—operations level.
12. Emergency medical service (EMS) training.
13. Additional training based on standard operating policies and procedures or standard operating guidelines.
14. Occupational Safety and Health Administration (OSHA)-related training, such as bloodborne pathogen protection.
15. Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural firefighting techniques.
16. Emergency response to terrorism.
17. Any other training designed to meet local training needs.

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.104(100B) Recordkeeping. Each fire department will maintain training records for each individual member of the department who participates in emergency incidents. These training records will identify, for all training completed by the individual firefighter, the person or persons who provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.105 to **251.200** Reserved.

FIREFIGHTER CERTIFICATION

661—251.201(100B) Firefighter certification and accreditation program. There is established within the fire service training bureau of the state fire marshal division a firefighter certification program for the state of Iowa, known as the certification and accreditation program. The certification and accreditation program is accredited by the National Board on Fire Service Professional Qualifications (Pro Board) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted national standards. All certifications issued by the certification and accreditation program will be based upon nationally accepted standards.

NOTE 1: Participation in the certification and accreditation program is voluntary, and state law does not require certification to work or volunteer as a firefighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the certification and accreditation program should be directed to the fire service training bureau.

251.201(1) *Eligibility.* Any person seeking certification through the certification and accreditation program will be a current member of a fire, emergency, or rescue organization within the state of Iowa or enrolled in a fire science program within the Iowa college system and at least 18 years of age.

EXCEPTION: Persons not meeting the requirement of membership in a fire, emergency, or rescue organization may be granted exceptions to this requirement on an individual basis. Individuals seeking such exceptions will address these requests to the fire service training bureau.

251.201(2) *Registration.* Registration forms for each level of firefighter certification may be obtained from the fire service training bureau. In order to enter the certification and accreditation program, a candidate will submit a completed registration, accompanied by the required fee, to the fire service training bureau. The registration and fee will be submitted no less than two weeks prior to the date of any examination in which the candidate wishes to participate.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.202(100B) Certification standards. Standards for the certification and accreditation program are based upon nationally recognized standards established by the NFPA. Certification at each level in the Iowa fire service certification system results in national certification.

251.202(1) *Firefighter.*

a. Firefighter I. Certification as a firefighter I is based upon the requirements for firefighter I certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Firefighter II. Firefighter II. Certification as a firefighter II is based upon the requirements for firefighter II certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(2) *Driver/operator.*

a. Driver/operator (pumper). Certification as a driver/operator (pumper) is based upon the requirements for fire department vehicle driver/operator (pumper) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Driver/operator (aerial). Certification as a driver/operator (aerial) is based upon the requirements for fire department vehicle driver/operator (aerial) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(3) *Fire officer.*

a. Fire officer I. Certification as a fire officer I is based upon the requirements for fire officer I certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

b. Fire officer II. Certification as a fire officer II is based upon the requirements for fire officer II certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

251.202(4) *Fire inspector.* Certification as a fire inspector is based upon the requirements for certification as a fire inspector established in NFPA 1030 – 2024 edition, "Standard for Professional Qualifications for Fire Prevention Programs."

251.202(5) *Fire investigator.* Certification as a fire investigator is based upon the requirements for certification as a fire investigator established in NFPA 1033 – 2022 edition, "Standard for Professional Qualifications for Fire Investigator."

251.202(6) *Fire and emergency services instructor.*

a. Fire and emergency services instructor I. Certification as a fire and emergency services instructor I is based upon the requirements for certification as a fire and emergency services instructor I established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Fire and emergency services instructor II. Certification as a fire and emergency services instructor II is based upon the requirements for certification as a fire and emergency services instructor II established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(7) *Live fire instructor.*

a. Live fire instructor. Certification as a live fire instructor is based upon the requirements for certification as a live fire instructor established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Live fire instructor in charge. Certification as a live fire instructor in charge is based upon the requirements for certification as a live fire instructor in charge established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(8) *Responder to hazardous materials incidents.*

a. Responder to hazardous materials incidents at the awareness level. Certification as a responder to hazardous materials incidents (awareness) is based on the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

b. Responder to hazardous materials incidents at the operations level. Certification as a responder to hazardous materials incidents (operations) is based upon the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.203(100B) Fees.

251.203(1) The fee for each certification is $50. These fees can be found on the fire service training bureau's website and also within the publication Certification Procedures Guide for each level of certification, published by the fire service training bureau. The information in each guide is effective upon publication until superseded by publication of a later edition. Prospective candidates who are considering application for a particular level of certification should contact the fire service training bureau for the latest date of publication of the Certification Procedures Guide.

251.203(2) Fees may be paid by personal credit card or check made payable to Iowa Department of Public Safety—Fire Service Training Bureau, credit card or check from a public agency or private organization, or money order. The check, credit card information, money order or draft will be submitted with the application.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

661—251.204(100B) Certification, denial, and revocation of certification.

251.204(1) *Certification.* Upon completion of the requirements for certification, the applicant's name will be entered into the Iowa certification database maintained by the fire service training bureau for the respective level of certification and into the certification databases maintained by the Pro Board and the IFSAC. Individuals who successfully complete the certification requirements will receive an individualized certificate awarding national certification from the fire service training bureau, which will bear numbered seals from the Pro Board and the IFSAC, and additional insignia from the fire service training bureau.

251.204(2) *Denial of certification.* Certification will be denied to any applicant who fails to meet all of the requirements for the type of certification, who knowingly submits false information to the fire service training bureau, or who engages in fraudulent activity during the certification process.

251.204(3) *Revocation.* The fire service training bureau may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process. In addition, certification may be revoked by the fire service training bureau if an individual was found to have engaged in and been convicted of a felony-level crime, including but not limited to murder, arson, sexual assault, physical assault, embezzlement, and crimes committed against a fire department or its respective association.

251.204(4) *Appeals.* Any person who is denied certification or whose certification is revoked may appeal the denial or revocation. An appeal of a denial or revocation of certification will be made to the commissioner of public safety within 30 days of the issuance of the denial or revocation using the contested case procedures specified in rules 661—10.301(17A) through 661—10.332(17A).

251.204(5) *Sex offender registry.* Pursuant to 2025 Iowa Acts, House File 793, a person who has committed any crime as an adult that resulted in the requirement that the person be listed on a sex offender registry will not be certified as a firefighter and will not serve as a noncertified or volunteer firefighter.

[**ARC 9964C**, IAB 1/7/26, effective 2/11/26]

These rules are intended to implement Iowa Code chapter 100B.

[Filed emergency 6/22/00—published 7/12/00, effective 7/1/00]

[Filed 3/2/01, Notice 7/12/00—published 3/21/01, effective 5/1/01]

[Filed 9/9/04, Notice 4/14/04—published 9/29/04, effective 12/1/04]
[Filed 5/18/05, Notice 7/7/04—published 6/8/05, effective 8/1/05]
[Filed 10/29/08, Notice 7/2/08—published 11/19/08, effective 1/1/09]
[Filed ARC 8302B (Notice ARC 8178B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]
[Filed ARC 9928B (Notice ARC 9766B, IAB 10/5/11), IAB 12/14/11, effective 2/1/12]
[Filed ARC 4641C (Notice ARC 4522C, IAB 7/3/19), IAB 8/28/19, effective 10/2/19]
[Filed ARC 5604C (Notice ARC 5502C, IAB 3/10/21), IAB 5/5/21, effective 6/9/21]
[Filed ARC 9964C (Notice ARC 9636C, IAB 10/29/25), IAB 1/7/26, effective 2/11/26]

CHAPTERS 252 to 258
Reserved

CHAPTER 259
FIRE FIGHTER TRAINING AND EQUIPMENT FUNDS

[Prior to 1/5/05, see 661—Ch 55]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—259.1 to **259.100** Reserved.

DIVISION I
VOLUNTEER FIRE FIGHTER TRAINING AND EQUIPMENT FUND

661—259.101(17A,77GA,ch1222) Establishment of fund. There is established in the state fire marshal division the volunteer fire fighter training and equipment fund. The fund, to the extent of appropriations made available in each state fiscal year, shall provide support for the training and equipment needs of volunteer fire fighters. Funding is available to individual fire departments for equipment and to organizations or individuals delivering training to support courses available at no cost to volunteer fire fighters receiving the training or to their respective departments.

259.101(1) Advisory committee. The state fire marshal may establish a volunteer fire fighter training and equipment fund advisory committee of persons knowledgeable about the training and equipment needs of volunteer fire fighters and volunteer fire departments to advise on allocation of moneys from the volunteer fire fighter training and equipment fund, including the selection of recipients in competitive situations.

259.101(2) Reserved.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.102(17A,77GA,ch1222) Allocations.

259.102(1) *Administrative allocation.* Each year, the state fire marshal shall allocate a portion of the funds appropriated to the volunteer fire fighter training and equipment fund for administration of the fund, including personnel expenses. A portion of the administrative allocation shall be made available to the fire service training bureau to defray the cost of maintaining records of course attendance and completion by volunteer fire fighters and for related expenses.

259.102(2) *Allocation to fire service training bureau.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to the fire service training bureau for the purpose of delivering training courses offered by the fire service training bureau to volunteer fire fighters at no cost to the volunteer fire fighters or their respective fire departments.

259.102(3) *Allocation for equipment purchases.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to equipment purchases for volunteer fire departments. Awards of funding to volunteer fire departments for equipment purchases shall be on a competitive basis within guidelines published in an announcement of the availability of these funds.

259.102(4) *Allocation to community college consortium.* The state fire marshal may allocate a portion of the moneys appropriated to the volunteer fire fighter training and equipment fund in any year to a consortium of community colleges to deliver training to volunteer fire fighters at no cost to the fire fighters receiving this training or to their respective fire departments. These funds shall be administered in accordance with an agreement entered into between the department of public safety and community colleges pursuant to Iowa Code chapter 28E.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.103(17A,77GA,ch1222) Awards to private providers of training. Funds appropriated each year to the volunteer fire fighter training and equipment fund which remain after the allocations set forth in rule 661—259.102(17A,77GA,ch1222) have been implemented shall be awarded on a competitive basis to private providers of training to provide training to volunteer fire fighters at no cost to the fire fighters receiving the training or to their respective fire departments.

259.103(1) *Funding requests.* Requests for funding of training courses instructed by private persons shall be submitted to the fire service training bureau. Requests for funding in any state fiscal year must be received on or before July 15 following the beginning of the fiscal year on July 1.

Exception:

If moneys which have been previously unexpended become available for additional training courses during the course of a fiscal year, notice shall be given to certified fire and emergency services instructors of the availability of these moneys. In this event, the deadline for receiving applications shall be as stated in the notice of availability.

259.103(2) *Instructor qualifications.* Any person instructing a training course paid for by the volunteer fire fighter training and equipment fund shall be certified as a fire and emergency services instructor by the fire service training bureau or another organization recognized by the National Board on Fire Service Professional Qualifications System or the International Fire Service Accreditation Congress.

Exception:

A person who has applied to the fire service training bureau for certification as a fire and emergency services instructor I and who is actively pursuing such certification may instruct a training course paid for by the volunteer fire fighter training and equipment fund, provided that the instruction is delivered under the direct supervision of a person who is currently certified as a fire and emergency services instructor I by the fire service training bureau or by another organization recognized by the National Board on Fire Service Professional Qualifications System or the International Fire Service Accreditation Congress.

259.103(3) *Course approval.* Each course paid for by the volunteer fire fighter training and equipment fund must have previously been approved by the fire service training bureau. Any person who is certified as a fire and emergency services instructor I or who is actively pursuing certification as a fire and emergency services instructor I should contact the fire service training bureau for information about the course approval process.

259.103(4) *Course availability.* Any course which is approved and funded from the volunteer fire fighter training and equipment fund must be available to any volunteer fire department in the state of Iowa.

259.103(5) *Notification.* Each person applying for moneys from the volunteer fire fighter training and equipment fund for delivery of training to volunteer fire fighters shall receive notification indicating whether the request has been approved or denied. Any approval of a request for funding is contingent upon the execution of a contract between the department of public safety and the provider of the proposed training course or courses setting out specific terms and conditions for the delivery of the proposed course or courses. Any person whose request for funding is denied may appeal that decision to the commissioner of public safety by filing a written notice of appeal within 14 calendar days of the date on which the notice indicating denial of the request is dated. Appeals of denials of funding shall be treated as contested cases and processed according to the procedures set out in rules 661—10.301(17A) through 661—10.332(17A).

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

Rules 661—259.101(17A,77GA,ch1222) to 661—259.103(17A,77GA,ch1222) are intended to implement 1998 Iowa Acts, chapter 1222, section 19(8).

661—259.104(100B) Paul Ryan memorial fire fighter safety training fund. Funds collected from the sale of special fire fighter license plates and deposited to the Paul Ryan memorial fire fighter safety training fund shall be utilized by the fire service training bureau to defray the cost of training provided to any fire fighter currently employed by or serving as a volunteer with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code section 100B.12.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.105(100B) Volunteer fire fighter preparedness fund. Funds appropriated to the volunteer fire fighter preparedness fund pursuant to Iowa Code section 100B.13 shall be utilized by the fire service training bureau to defray the cost of training provided to fire fighters currently serving as volunteers with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of

training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—259.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code section 100B.13.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.106 to **259.200** Reserved.

DIVISION II
FIRE FIGHTING EQUIPMENT REVOLVING LOAN FUND

661—259.201(80GA,ch177) Fire fighting equipment revolving loan fund. There is established in the fire service training bureau in the state fire marshal division the fire fighting equipment revolving loan fund.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.202(80GA,ch177) Purpose and scope. The fire fighting equipment revolving loan fund is established to assist local fire departments to complete purchase or repairs of equipment used in the performance of the departments' fire fighting duties, when the acquisition or repair of such equipment would be impractical in the absence of assistance from the fund. Each payment of funds from the fund to a local fire department shall be a loan awarded in compliance with rules 661—259.201(80GA,ch177) to 661—259.207(80GA, ch177), and shall be for the specific purpose established in a contract entered into between the department of public safety and either the local fire department receiving the funds; or the city, county, or township of which the fire department is a part; or another legal entity authorized to enter into legally binding commitments on behalf of the fire department.

661—259.203(80GA,ch177) Definitions. For purposes of rules 661—259.201(80GA,ch177) to 661—259.207(80GA,ch177), the following definitions apply:

"Default" or *"in default"* means that more than one payment on a loan is currently due.

"Local fire department" means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. "Local fire department" does not include a military or private industrial fire department or service.

"NFPA" means the National Fire Protection Association.

"PASS" means personal alert safety system.

"SCBA" means self-contained breathing apparatus.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.204(80GA,ch177) Application process.

259.204(1) *Notice of availability of funds.* Whenever funds are available for loans through the fire fighting equipment revolving loan fund, the fire service training bureau shall publish notice of the availability of those funds in the Iowa Administrative Bulletin and shall notify fire service organizations, including, but not limited to, the Iowa Firemen's Association, the Iowa Fire Chiefs Association, and the Iowa Association of Professional Fire Chiefs, of the availability of those funds, the procedure for applying for loans through the program, the deadline for applying for funds, and the provisions of rules 661—259.201(80GA,ch177) to 661—259.207(80GA,ch177). All local fire departments in Iowa known to the fire service training bureau shall receive notice by mail or, when available, electronic mail. In addition, notice of availability of funds and the application procedure shall be published on the department's website.

259.204(2) *Application.* Application for a loan from the fire fighting equipment revolving loan fund shall be made on an application form provided by the fire service training bureau. A completed application shall be submitted to the fire service training bureau by the deadline specified in the notice of availability

of public funds and shall include any attached materials required in the instructions provided with the application form.

a. An application form shall be completed by the local fire department. The application shall include contact information, loan amount requested, purpose of the loan, statement of need, and current financial information, and any additional information specified on the application form or accompanying instructions, and shall be signed by an official authorized to enter into contracts on behalf of the local fire department.

b. In addition to the application, the following information will be required prior to loan approval:

(1) Documentation that the department requesting the loan meets the definition of a "local fire department."

(2) Financial statements showing income, expenses, assets, liabilities, and sources of income for the department requesting the loan for a three-year period prior to the loan request date.

(3) Verification that the match requirement will be met. A letter from the executive or chief financial officer of the agency funding the match requirement will normally be sufficient.

(4) A copy of the contract, bid specifications, or proposal for purchase of the equipment/apparatus to be purchased with the loan proceeds, or repair work order, if applicable.

259.204(3) *Loan application review.*

a. The state fire marshal and the chief of the fire service training bureau shall review each application for completeness and compliance with rules 661—259.201(80GA,ch177) to 661—259.207(80GA,ch177).

b. The state fire service and emergency response council, or a subcommittee of the council established for this purpose, shall serve as an advisory committee to the state fire marshal in the loan application review process, and shall recommend to the state fire marshal funding, partial funding, or denial of each application. Recommendations regarding loan applications shall be based upon availability of funds in relation to the total funds requested by eligible applicants, documentation of need for the proposed purchase or repair, and documentation of likely ability of the local fire department applying for a loan to repay the loan.

c. Decisions to award or not to award loans shall be made by the state fire marshal.

259.204(4) *Appeals.* If a local fire department's application is denied or partially funded by the state fire marshal, the department may appeal the decision of the state fire marshal to the commissioner of public safety using procedures for appeals set out in 661—Chapter 10.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.205(80GA,ch177) Allowable acquisitions. Loans from the fire fighting equipment revolving loan fund may be used to acquire the following equipment or repair services with the limitations indicated:

1. Fire fighting apparatus, including pumpers, tankers, ladder trucks, hazardous materials emergency response vehicles, or rescue vehicles. Any apparatus obtained with loan funds must comply with applicable NFPA standards, as identified by the state fire marshal. Loans in this category may be awarded in amounts between $25,000 and $150,000.

2. Personal protective equipment and communications equipment, including personal protective clothing (structural and wild land) that includes helmets, coats, boots, pants, eye protection, gloves, and protective hoods; SCBA with integrated PASS devices; and radio communications devices. Radio communications devices obtained with loan funds must be interoperable with equipment utilized by agencies with which the agency obtaining the equipment has mutual aid agreements, if such interoperable equipment is available. Equipment obtained must comply with applicable NFPA standards, as identified by the state fire marshal. Loans for purchase in this category are limited to amounts between $10,000 and $50,000.

3. Repairs made to apparatuses identified in paragraph "1." Loans in this category are limited to amounts between $10,000 and $50,000.

4. Purchase of accessory equipment, including fire suppression equipment such as hoses, ladders, small fireground tools, ventilation equipment, or vehicle extrication and rescue equipment. Equipment obtained with loan funds must comply with applicable NFPA standards, as identified by the state fire marshal. Loans in this category are limited to amounts between $10,000 and $50,000.

5. The state fire marshal, acting on the advice of the fire service and emergency response council, may establish priorities for funding through the revolving loan fund. If such priorities are established, they will be included in the notice of availability of funds and shall be utilized only if the total amount of funding requested exceeds the total of funds available to loan.
[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.206(80GA,ch177) Eligibility requirements and restrictions.

259.206(1) Any local fire department in the state of Iowa is eligible to apply for a loan.

259.206(2) Loan applicants shall be required to provide a 10 percent match.

259.206(3) All successful loan applicants shall comply fully with the fire incident reporting requirements of the state fire marshal division.

259.206(4) No loan shall be made to a local fire department serving a population in excess of 30,000 people which will result in excess of 50 percent of the total funds loaned at any given time being loaned to local fire departments serving populations in excess of 30,000 people, unless the state fire marshal finds that there are no eligible applications pending from local fire departments serving populations of 30,000 people or less.

259.206(5) Following approval, loan funds will be provided only after the local fire department receiving the loan submits documentation showing that the department has either acquired, contracted for, or issued a purchase order for the equipment. Disbursement of the loan shall be in the form of a warrant payable either to the local fire department and the vendor or vendors supplying the equipment or repair services, or solely to the vendor or vendors, or, with the approval of the state fire marshal, solely to the local fire department receiving the loan.

259.206(6) A local fire department is eligible for only one loan during any five-year period or for the duration of an existing loan from this program, whichever is longer.

259.206(7) A local fire department that has been in default on a loan is not eligible for additional loans through this program for a period of two years beyond the time specified in subrule 259.206(6). Any prior history of defaulting on a loan from the revolving loan fund will be taken into account in evaluating a department's ability to repay a loan, pursuant to subrule 259.204(3), paragraph *"b."*

259.206(8) A local fire department receiving a loan is subject to a financial audit and any operational or program audits necessary to verify compliance with any requirements or conditions of the loan.
[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.207(80GA,ch177) Loan origination fee and repayment schedule.

259.207(1) Each approved loan shall carry an origination fee of 1 percent of the loan amount, which shall be withheld by the fire service training bureau from the original payout of the loan.

259.207(2) A repayment schedule for each loan shall be established at the time the loan is awarded, with a minimum of two payments per year for the duration of the loan. Generally, loans of $50,000 or less shall be repaid within a five-year period, and loans of more than $50,000 shall be repaid within a ten-year period, although the state fire marshal may allow variations for good cause. There will be no penalty for early payment. Each payment shall be by warrant, check, or money order made payable to Fire Service Training Bureau, Iowa Department of Public Safety, and shall be clearly marked "Repayment of Loan from Fire Fighting Equipment Revolving Loan Fund."

259.207(3) During any period when a loan is in default, there shall be a penalty of 1.5 percent of the remaining unpaid principal of the loan per month added to the amount of the loan.
[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

These rules are intended to implement 2003 Iowa Acts, chapter 177, section 11.

661—259.208 to **259.300** Reserved.

DIVISION III
REGIONAL TRAINING FACILITY FUNDS

661—259.301(100B) Regional training center program.

259.301(1) There is established in the state fire marshal division the regional emergency response training center program. The program shall operate under the authority of the state fire marshal and shall operate within the fire service training bureau. Day-to-day administration of the program shall be under the supervision of the chief of the fire service training bureau.

259.301(2) The purposes of the regional emergency response training center program are:

a. To administer funds appropriated for the program as directed by the general assembly, under the direction of the state fire marshal, and in cooperation with the state fire service and emergency response council.

b. To develop training curricula in cooperation with regional emergency response training facilities.

c. To encourage cooperation among regional emergency response training facilities, between regional emergency response training facilities and the fire service training bureau, and among the fire service training bureau, regional emergency response training facilities, and other providers of training to emergency responders.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.302(100B) Definitions. The following definitions apply to rules 661—259.301(100B) through 661—259.305(100B):

"Allocated funds" means funds allocated by the general assembly for the construction of a particular regional emergency response training center.

"Bureau" means the fire service training bureau in the state fire marshal division of the department of public safety.

"Competitive funds" means funds which are appropriated or otherwise available to the regional emergency response training center program for construction of regional emergency response training facilities, but which are not designated by the general assembly for the use of a particular regional emergency response training center.

"Department" means the department of public safety.

"Division" means the state fire marshal division of the department of public safety.

"Lead agency" means one of the community colleges identified as lead agencies in Iowa Code section 100B.22(1).

"Partner agency" means one of the agencies identified as partners in Iowa Code section 100B.22(1).

"Regional emergency response training center" means one of the centers identified in Iowa Code section 100B.22(1).

"Training facility" includes, but is not limited to, the following:

1. Burn building.
2. Smokehouse.
3. Drill tower.
4. Skills building.
5. Training pads with specialized training props.
6. Maintenance facilities.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.303(100B) Availability of funds. Lead agencies of regional emergency response training facilities, acting in concert with their respective partner agencies, may apply for and receive funds appropriated or otherwise available for construction of regional emergency response training facilities.

661—259.304(100B) Application process.

259.304(1) *Applications for funds.*

a. Application for either allocated funds or competitive funds shall be submitted to the fire service training bureau on a form specified by the state fire marshal.

b. Each lead agency may submit a completed application for allocated funds.

c. Any lead agency may submit a completed application for competitive funds. An application for competitive funds shall be submitted separately from an application from the same lead agency for allocated funds.

d. Each completed application shall be signed by an official of the lead agency authorized to enter into contracts on behalf of the lead agency and shall be signed by an official of each partner of the lead agency, each of whom shall be a person authorized to enter into contracts on behalf of the partner agency.

e. Each application shall be accompanied by at least two letters of support from public or private agencies employing emergency responders and located in the area to be served by the regional emergency response training center.

f. Each application shall include signed assurances stating that the lead agency, the partner agency or agencies, if any, and the regional emergency response training center shall comply with all federal and state laws applicable to the administration of any funds awarded, the planning, design, and construction of the regional emergency response training center, and the operation of the center after construction is completed.

g. All information required on the application shall be completed, and all attachments required by the state fire marshal shall be submitted with the application. An application shall not be considered complete unless the application is in compliance with this paragraph.

h. The deadline for submission of each completed application for funding during a state fiscal year is September 15 of that fiscal year.

Exception:

If funds remain available for distribution through the regional emergency response training center program after all applications received by the September 15 deadline have been processed, the state fire marshal may conduct an additional application process during the same fiscal year. If such an additional application process is conducted, an announcement of the availability of funds, specifying the deadline for receipt of applications and other instructions for applying for funds, shall be provided to all regional emergency response training centers and shall be published in the Iowa Administrative Bulletin.

259.304(2) *Initial applications.* The initial application received from a lead agency on behalf of a regional emergency response training center shall include the following information:

a. Proposed location of the regional emergency response training center.

b. Justification for the proposed location. The justification shall include descriptions of each of the following and explanations of how each was taken into account in the selection of the location:

(1) The availability and proximity of quality classroom space with adequate audiovisual support.

(2) The availability and adequate supply from area emergency response service entities of equipment which supports training.

(3) A site where limited, safe open burning would not be challenged or prohibited due to environmental issues or community concerns.

(4) Proximity to a medical facility.

(5) The availability of water mains, roadway, drainage, electrical service, and reasonably flat terrain.

(6) Accessibility to area fire departments.

c. List of training facilities needed for the regional emergency response training center to provide training to fire fighters and other emergency responders. If any needed facility already exists and is owned by the lead agency or a partner agency, this fact shall be identified. Funds allocated through the regional emergency response training center program may not be used to duplicate an existing facility owned by a lead agency or any of its partners. However, funds may be used to replace a facility which is obsolete or out of repair, provided that the facility being replaced will not be used for the same purpose as a new facility constructed with these funds.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

661—259.305(100B) Processing of submitted applications.

259.305(1) All completed applications received shall be reviewed by the state fire service and emergency response council or by a subcommittee of the council appointed by the state fire marshal in consultation with the chair of the council. The council or subcommittee shall recommend funding, partial funding, or denial of each application to the state fire marshal.

259.305(2) After receiving the recommendations of the council or subcommittee, the state fire marshal shall make a determination as to whether funding will be awarded in whole or in part for each application or whether the application will be denied. Each applicant shall be notified promptly of the disposition of the applicant's application. If the application is denied or partial funding is awarded, the applicant shall be informed as to the reasons for the denial or partial funding. Applications for funding shall be evaluated based on the criteria for funding included in Iowa Code section 100B.22(3) and any applicable criteria for establishing priority for the funding established by the general assembly. Competitive funding may not be used for facilities the primary purpose of which is to provide advanced training.

259.305(3) Appeals.

a. An applicant who is denied funding or whose application is funded in part may appeal this decision to the state fire marshal. Such an appeal shall be treated as a contested case subject to the provisions of rules 661—10.301(17A) through 661—10.332(17A), except that the request for an appeal shall be filed with the State Fire Marshal Division, Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, and wherever "commissioner" or "commissioner of public safety" appears, "state fire marshal" shall be substituted.

b. Prior to appealing a decision, the applicant may submit a revised application to the state fire marshal. If an applicant intends to submit a revised application, the applicant shall so notify the state fire marshal within the time frame established for filing an appeal. Upon receipt of a revised application, the state fire marshal shall cause the revised application to be processed in accordance with subrules 259.305(1) and 259.305(2). If a revised application is denied or funded in part, the applicant may appeal in accordance with paragraph *"a"* of this subrule.

[**ARC 4641C**, IAB 8/28/19, effective 10/2/19]

These rules are intended to implement Iowa Code chapter 100B.

[Filed emergency 7/31/02 after Notice 5/29/02—published 8/21/02, effective 8/1/02]
[Filed emergency 12/4/03—published 12/24/03, effective 1/1/04]
[Filed 12/14/04, Notice 7/7/04—published 1/5/05, effective 3/1/05]
[Filed emergency 6/28/06—published 7/19/06, effective 7/1/06]
[Filed emergency 6/27/07—published 8/1/07, effective 7/1/07]
[Filed ARC 4641C (Notice ARC 4522C, IAB 7/3/19), IAB 8/28/19, effective 10/2/19]

CHAPTERS 260 to 264
Reserved

CHAPTER 265
CONSUMER FIREWORKS RETAIL SELLER LICENSING AND WHOLESALER REGISTRATION
Transferred to 481—Chapter 264, IAC Supplement 11/26/25

CHAPTERS 266 to 274
Reserved

CHAPTER 275
LICENSING OF FIRE PROTECTION SYSTEM CONTRACTORS
Transferred to 481—Chapter 265, IAC Supplement 11/26/25

CHAPTER 276
LICENSING OF FIRE PROTECTION SYSTEM TECHNICIANS
Transferred to 481—Chapter 266, IAC Supplement 11/26/25

CHAPTER 277
LICENSING OF ALARM SYSTEM CONTRACTORS AND TECHNICIANS
Transferred to 481—Chapter 267, IAC Supplement 11/26/25

CHAPTER 278
MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS FOR FIRE EXTINGUISHING AND ALARM SYSTEMS CONTRACTORS AND INSTALLERS
Rescinded **ARC 7876C**, IAB 4/17/24, effective 5/22/24

CHAPTERS 279 to 290
Reserved

CHAPTER 291
VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS

[Prior to 1/5/05, see 661—Ch 59]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—291.1(100B) Volunteer emergency services provider death benefit program. There is established within the fire marshal division a volunteer emergency services provider death benefit program with responsibility for administering the payment of death benefits to beneficiaries of volunteer emergency services providers who die in the line of duty, as provided in Iowa Code section 100B.11.

Information about the program may be obtained by mail from the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by telephone at (515)725-6145, or by electronic mail at fminfo@dps.state.ia.us.

[Editorial change: IAC Supplement 6/17/09]

661—291.2(100B) Eligibility. The beneficiary of a volunteer emergency services provider who is killed in the line of duty is eligible for a lump-sum payment of $100,000 from the volunteer emergency services provider death benefit program, provided that application is made to the program in accordance with requirements established in this chapter and all eligibility criteria are satisfied.

291.2(1) *Application.* Application forms for the volunteer emergency services provider death benefit program may be obtained on request from the fire marshal division. The fire marshal may accept a legible copy of a completed application for the federal Public Safety Officers' Benefits Program as an application for payment of benefits from the volunteer emergency services provider death benefit program. Completed application forms shall be mailed or delivered to the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. A completed application form shall be accompanied by a letter from the chief or other responsible supervisory official of the department in which the volunteer emergency services provider was serving at the time of the line-of-duty death, certifying that the death of the volunteer was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. Any evidence or proof available to the chief or responsible supervisory official to support the claim shall accompany the letter.

291.2(2) *Definitions.* The following definitions apply to the volunteer emergency services provider death benefit program.

"Beneficiary" means the surviving spouse of the volunteer emergency services provider who died in the line of duty. If there is no surviving spouse, and there is a surviving child or surviving children of the volunteer emergency services provider, then "beneficiary" means the surviving child of the member. If there is more than one surviving child, the children are cobeneficiaries who shall share equally in the lump-sum payment of the death benefit. If there is no surviving spouse or child of the volunteer emergency services provider, "beneficiary" means the surviving father or mother of the volunteer emergency services provider if either or both survives at the time of the line-of-duty death of the volunteer emergency services provider. If both the mother and father of the volunteer emergency services provider survive at the time of the line-of-duty death of the volunteer emergency services provider, then the father and mother are cobeneficiaries who shall share equally in the lump-sum payment. If there is no surviving spouse, child, or parent at the time of the line-of-duty death of the volunteer emergency services provider, then "beneficiary" means the estate of the deceased volunteer emergency services provider.

"Line-of-duty death" means the death of a volunteer emergency services provider which was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. The death is not a line-of-duty death if any of the following apply:

1. The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the volunteer emergency services provider's death.

However, if the death was the direct and proximate result of a heart attack or stroke, the volunteer emergency services provider shall be presumed to have died as a result of a traumatic personal injury if the provider engaged in a nonroutine stressful or strenuous physical activity within the scope of the provider's duties and the death resulted while engaging in that activity, while still on duty after engaging in that activity, or not later than 24 hours after engaging in that activity, and the presumption is not overcome by competent medical evidence to the contrary. For purposes of this paragraph, "nonroutine stressful or strenuous physical activity" includes, but is not limited to, nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, emergency response, and training exercise activities. "Nonroutine stressful or strenuous physical activity" does not include activities of a clerical, administrative, or nonmanual nature.

2. The death was caused by the intentional misconduct of the volunteer emergency services provider or by such provider's intent to cause the provider's own death.

3. The volunteer emergency services provider was voluntarily intoxicated at the time of death.

4. The volunteer emergency services provider was performing the provider's duties in a grossly negligent manner at the time of death.

5. A beneficiary who would otherwise be entitled to a benefit under this chapter was, through the beneficiary's actions, a substantial contributing factor to the volunteer emergency services provider's death.

[Editorial change: IAC Supplement 6/17/09]

661—291.3(100B) Determination. After receiving an application for benefits from the volunteer emergency services provider death benefit program, the fire marshal shall make a determination as to whether or not the application meets the requirements for payment of benefits. The fire marshal may require the beneficiary or the chief or responsible supervisory official who has certified that the death is a line-of-duty death to submit any additional information that the fire marshal deems material to making the determination. If the determination is that the requirements for payment of benefits have been met, the fire marshal shall so notify the beneficiary or cobeneficiaries and shall request that the department of revenue issue a warrant payable to the beneficiary in the amount of the lump-sum payment provided or, if there are cobeneficiaries, that the department of revenue issue warrants in equal shares of the lump-sum amount payable to each of the cobeneficiaries.

291.3(1) *Denial and notification.* If the fire marshal determines that the eligibility criteria have not been met, the fire marshal shall notify in writing the beneficiary or cobeneficiaries and the chief or responsible supervisory official who certified that the death occurred in the line of duty of the determination and of the reason or reasons for the denial.

291.3(2) *Appeals.* If an application for payment from the volunteer emergency services provider program is denied, the beneficiary or any cobeneficiary may appeal that decision to the commissioner of public safety by filing an appeal in writing to the commissioner of public safety within 30 days of the date of the denial of the application by the fire marshal. Appeals shall be processed in accordance with contested case procedures specified in 661—Chapter 10.

These rules are intended to implement Iowa Code section 100B.11 as amended by 2004 Iowa Acts, chapter 1063.

[Filed emergency 6/22/00—published 7/12/00, effective 7/1/00]
[Filed 3/2/01, Notice 7/12/00—published 3/21/01, effective 5/1/01]
[Filed emergency 6/17/04—published 7/7/04, effective 7/1/04]
[Filed 12/14/04, Notice 7/7/04—published 1/5/05, effective 3/1/05]
[Editorial change: IAC Supplement 6/17/09]

CHAPTER 292
PUBLIC SAFETY SURVIVOR BENEFITS FUND

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—292.1(80) Purpose. These rules establish the operation of the public safety survivor benefits fund. This fund shall be used to assist the surviving families of eligible peace officers and fire fighters killed in the line of duty with the payment of costs associated with accident or health care coverage pursuant to Iowa Code section 509A.13C.
[**ARC 4799C**, IAB 12/4/19, effective 1/8/20]

661—292.2(80) Definition. For the purposes of this chapter, "eligible peace officer or fire fighter" means a peace officer as defined in Iowa Code section 801.4, or a fire fighter, to whom a line of duty death benefit is payable pursuant to Iowa Code section 97A.6(16), 97B.52(2), or 411.6(15).
[**ARC 4799C**, IAB 12/4/19, effective 1/8/20]

661—292.3(80) Fund eligibility. To be awarded funding from the public safety survivor benefits fund, an applicant shall be a nonprofit organization that provides resources to assist the surviving families of eligible peace officers or fire fighters killed in the line of duty.
[**ARC 4799C**, IAB 12/4/19, effective 1/8/20]

661—292.4(80) Procedure. Applications for the public safety survivor benefits fund shall be submitted to the Iowa Department of Public Safety, Commissioner's Office, 215 East 7th Street, Des Moines, Iowa 50319. Applications shall be submitted annually by November 1.

292.4(1) *Application process.* An application shall contain all of the following:

a. The name and address of the organization,

b. Articles of incorporation of the organization,

c. The mission statement of the organization,

d. The employment identification number (EIN) of the organization,

e. A statement proposing how the grant will be used for the surviving families of eligible peace officers or fire fighters, and

f. Any other details that the department may deem useful in the evaluation of an award of the grants as set forth in this chapter.

292.4(2) *Award determination.*

a. The commissioner of the department or the commissioner's designee shall review the applications and determine the organizations to receive grant funding. At least one organization for the surviving families of peace officers and one organization for the surviving families of fire fighters shall be chosen each year. Organizations shall be notified annually by December 1.

b. The department shall give first consideration to:

(1) Iowa Concerns of Police Survivors, Inc., and similar nonprofit organizations.

(2) Iowa Professional Fire Fighters, Inc., and similar nonprofit organizations.

292.4(3) *Award disbursement.* Chosen organizations shall receive the award annually by January 1.

292.4(4) *Report required.* All organizations receiving funding shall file a report with the department no later than July 1 for each year that funding is received. The report shall contain all of the following:

a. The number of surviving families that received benefits associated with accident or health care coverage from the nonprofit organization,

b. The number of surviving families that were denied benefits,

c. The amount of actual benefits paid to each surviving family,

d. The total amount of administrative costs associated with providing benefits to surviving families.
[**ARC 4799C**, IAB 12/4/19, effective 1/8/20]

These rules are intended to implement Iowa Code section 80.47.

[Filed ARC 4799C (Notice ARC 4651C, IAB 9/11/19), IAB 12/4/19, effective 1/8/20]

CHAPTERS 293 to 299
Reserved

CHAPTER 300
STATE BUILDING CODE—ADMINISTRATION
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]
Transferred to 481—Chapter 300, IAC Supplement 11/26/25

CHAPTER 301
STATE BUILDING CODE
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]
Transferred to 481—Chapter 301, IAC Supplement 11/26/25

CHAPTER 302
STATE BUILDING CODE—ACCESSIBILITY OF BUILDINGS AND FACILITIES AVAILABLE TO THE PUBLIC
[Prior to 12/21/05, see rules 661—16.700(103A,104A) to 661—16.720(103A,104A)]
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTER 303
STATE BUILDING CODE—REQUIREMENTS FOR ENERGY CONSERVATION IN CONSTRUCTION
[Prior to 12/21/05, see rules 661—16.800(103A) to 661—16.802(103A)]
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 304 to 309
Reserved

CHAPTER 310
SUSTAINABLE DESIGN STANDARDS
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 311 to 314
Reserved

CHAPTER 315
WEATHER SAFE ROOMS
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 316 to 321
Reserved

CHAPTER 322
STATE BUILDING CODE—MANUFACTURED HOUSING SUPPORT AND ANCHORAGE SYSTEMS
[Prior to 7/2/08, see rules 661—16.625(103A) and 661—16.626(103A)]
Transferred to 481—Chapter 322, IAC Supplement 11/26/25

CHAPTER 323
TEMPORARY EMERGENCY USE OF FACTORY-BUILT STRUCTURES—COMMERCIAL USE
Transferred to 481—Chapter 323, IAC Supplement 11/26/25

CHAPTERS 324 to 349
Reserved

CHAPTER 350
STATE HISTORIC BUILDING CODE
Rescinded **ARC 9474C**, IAB 8/6/25, effective 9/10/25

CHAPTERS 351 to 371
Reserved

CHAPTER 372
MANUFACTURED OR MOBILE HOME RETAILERS, MANUFACTURERS, AND DISTRIBUTORS
Transferred to 481—Chapter 324, IAC Supplement 11/26/25

CHAPTER 373
Reserved

CHAPTER 374
MANUFACTURED HOUSING INSTALLER CERTIFICATION
[Prior to 7/2/08, see rule 661—16.622(103A)]
Transferred to 481—Chapter 325, IAC Supplement 11/26/25

CHAPTERS 375 to 399
Reserved

CHAPTER 400
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—GOVERNANCE AND ADMINISTRATION

[Prior to 10/27/04, see 581—Ch 24]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—400.1(97A) Establishment of system. The Iowa department of public safety peace officers' retirement, accident, and disability system is established by Iowa Code chapter 97A. The administrative rules governing the system are found in this chapter and in 661—Chapters 401, 402, and 403.
[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—400.2(97A) Definitions. The following definitions apply to 661—Chapters 400 through 403.

"Active member," "actively engaged member" or *"member in service"* means a currently employed peace officer of the Iowa department of public safety who is not reemployed pursuant to Iowa Code section 97A.3, subsection 3.

"Board" means the board of trustees of the system.

"Commissioner" means the commissioner of the Iowa department of public safety who also serves as the chairperson of the board of trustees.

"Department" means the Iowa department of public safety.

"Line-of-duty death" means the death of a member in service which was the direct and proximate result of a traumatic personal injury incurred in the line of duty. Line-of-duty death does not include the death of a member which resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death. Line-of-duty death does not include the death of a member if the death results in eligibility for payment of a line-of-duty death benefit pursuant to Iowa Code section 100B.11 and 661—Chapter 291.

"Medical attention" means services provided by licensed medical personnel including, but not limited to, office, hospital, in-home nursing care, nursing home care, long-term care and prescriptions for medicine or equipment.

"Medical board" means a board of three physicians appointed by the board of trustees pursuant to Iowa Code section 97A.5, subsection 8.

"Peace officers' retirement system," also referred to as *"the system,"* means the Iowa department of public safety peace officers' retirement, accident, and disability system.

"Retired member" means a person formerly employed as a peace officer of the Iowa department of public safety who is currently receiving or has received pension benefits from the system.

"Secretary" means an employee of the administrative services division of the Iowa department of public safety designated by the division director to provide staff support to the board.

"System" means the Iowa department of public safety peace officers' retirement, accident, and disability system.
[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—400.3(97A) Governance. The system is governed by a board of trustees, appointed and elected as provided in Iowa Code section 97A.5, subsection 1. The board of trustees shall have five members, including the commissioner of public safety, who shall serve as chairperson of the board, the treasurer of state, an actively engaged member of the system, a retired member of the system, and a person appointed by the governor.

400.3(1) *Terms of office.* Terms of office of members of the board of trustees are as follows:

a. The commissioner of public safety shall serve a term that is concurrent with appointment as commissioner of public safety.

b. The treasurer of state shall serve a term that is concurrent with the term of treasurer of state.

c. The actively engaged member of the system shall serve a two-year term commencing on July 1 of an odd-numbered year and terminating on June 30 of the next odd-numbered year.

d. The retired member of the system shall serve a two-year term commencing on July 1 of an even-numbered year and terminating on June 30 of the next even-numbered year.

e. The member appointed by the governor shall serve a two-year term commencing on May 1 of the year of appointment and terminating on April 30 in the year of expiration.

400.3(2) *Election of board members.*

a. The actively engaged member shall be elected by secret ballot of the actively engaged members of the system. The retired member shall be elected by secret ballot of the retired members of the system. The actively engaged member shall be elected in odd-numbered years, and the retired member shall be elected in even-numbered years.

b. At least 90 days prior to the start of the term of office for the actively engaged member or the retired member, the secretary shall distribute by regular mail a write-in nomination ballot to each member of the system who is eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. In order to record a nomination, a member shall return the nomination ballot with a postmark or by personal delivery prior to the deadline specified on the ballot, filled in with the name of the member whom the member casting the ballot wishes to nominate.

c. The secretary shall contact each of the nominees who receive the three highest numbers of nominations to determine if each nominee is willing to serve if elected. For each nominee contacted who is unwilling to serve, the secretary shall contact the next nominee in descending order of nominations until three nominees willing to serve are identified.

d. The names of those three eligible members willing to serve if elected who receive the highest number of write-in nominations shall be placed on an election ballot.

e. The secretary shall distribute by regular mail election ballots to the members of the system who are eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. Any eligible member who receives a ballot and wishes to vote shall return the ballot to the secretary with a postmark or by personal delivery prior to the deadline printed on the ballot with a choice of one of the three candidates listed indicated. The candidate who receives the highest number of votes shall serve as the actively engaged member or the retired member of the system on the board of trustees.

f. In the event that two of the three candidates tie with the highest number of votes, a new election ballot with the names of the two candidates who tied shall be distributed by regular mail by the secretary to all members who are eligible to vote. The deadline for return of the ballots shall be established by the secretary at no less than 30 days nor more than 35 days after the date of distribution of the ballots and shall be printed on each ballot. Any eligible member who wishes to vote shall return the ballot to the secretary prior to the deadline with the member's preference indicated. The candidate who receives the highest number of votes shall serve as the actively engaged member or the retired member on the board of trustees.

g. In the event that all three candidates receive the same number of votes in the initial election balloting or that the two remaining candidates receive the same number of votes in an election held to break a tie between two candidates, the selection of the board member shall be determined by drawing of lots under the supervision of the commissioner of public safety, acting as chairperson of the board of trustees.

400.3(3) *Vacancies.* A vacancy in a position held by an elected member shall be filled in the same manner as the original election, and the newly elected member shall serve for the balance of the original term for the position filled.

661—400.4(97A) Meetings of board of trustees. The board of trustees shall meet at least quarterly, or upon the call of the chairperson. A quorum of the board shall consist of three members, and three concurring votes shall be necessary for a decision by the board. For purposes of a quorum or for voting, a member may participate in person, by audio conference or by videoconference.

661—400.5(97A) Administrative support. The department provides administrative support to the system, through the administrative services division. The secretary shall be an employee of the department. Employees of the system shall be under the administrative supervision of the director of the administrative

services division. Additional administrative support may be provided by other employees of the department at the direction of the commissioner of public safety.

661—400.6(97A) Forms and information. Persons who wish to obtain forms or information about the peace officers' retirement, accident, and disability system shall address requests to:

Peace Officers' Retirement System
Iowa Department of Public Safety
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319
(515)725-6248
asdinfo@dps.state.ia.us

[Editorial change: IAC Supplement 6/17/09]

661—400.7(97A) Annual statements.

400.7(1) As soon as practical after the close of each fiscal year, a statement of account shall be furnished to each actively engaged member, which shall include the member's contribution for the year.

400.7(2) As soon as practical after the end of a calendar year, and in any event within any deadlines for this purpose established by the Internal Revenue Service or the Iowa department of revenue, a Form 1099, W2-P or an equivalent shall be prepared for and mailed to each person who received benefits during the year. The form shall detail the total pension paid during the year and shall comply with any applicable requirements established by the Internal Revenue Service and the Iowa department of revenue.

661—400.8(97A) Books of account. The following books of account shall be maintained by the secretary.

400.8(1) Self-balancing combination journal that records all receipts, disbursements and necessary adjustments.

400.8(2) Self-balancing ledger of control accounts.

400.8(3) Schedules at the close of the fiscal year which shall detail all control accounts except:

a. Pension reserve account.

b. Pension accumulation account.

661—400.9(97A) Investments. Investments of assets of the system shall be administered through the office of the treasurer of state. The board of trustees has the authority to direct the investment of funds, including, but not limited to, the execution of contracts with appropriately qualified individuals or firms to provide advice regarding investments.

661—400.10(97A) Medical board.

400.10(1) The medical board shall consist of three physicians, including at least one occupational medicine specialist, with the knowledge and experience to adequately evaluate the fitness for duty of a peace officer.

400.10(2) The board of trustees shall ratify the composition of the medical board and all subsequent changes to the composition of the medical board. The board of trustees may review the composition of the medical board at any time.

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

[Filed 10/5/04, Notice 8/18/04—published 10/27/04, effective 12/1/04]
[Filed emergency 6/26/06—published 7/19/06, effective 7/1/06]
[Filed 9/20/06, Notice 7/19/06—published 10/11/06, effective 12/1/06]
[Editorial change: IAC Supplement 6/17/09]
[Filed Emergency After Notice ARC 8935B (Notice ARC 8767B, IAB 5/19/10), IAB 7/14/10, effective 7/1/10]

CHAPTER 401
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—ADMINISTRATIVE PROCEDURES

[Prior to 10/27/04, see 581—Ch 24]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—401.1(97A) Applications. Applications for benefits under Iowa Code chapter 97A shall be filed with the secretary on forms provided by the secretary. Applications for service retirement shall be made not more than 90 days nor less than 30 days in advance of the date of retirement. Applications for service retirement, ordinary disability or accidental disability shall be reviewed by the secretary for completeness and then forwarded to the board of trustees.

401.1(1) *Manner of review for ordinary or accidental disability.* The secretary shall compile the following materials, if available and applicable, for the board's review of a claim:

a. The application;

b. Any materials provided by the applicant;

c. Any available medical information in the possession of the board or the state;

d. Any information available through any workers' compensation claims made by the applicant; and

e. Recommendations and reports from the medical board.

NOTE: This subrule does not impose a responsibility on the secretary to discover documents or evidence not in the secretary's possession. It is only intended to outline the types of evidence the secretary should provide to the board if available.

401.1(2) *Commissioner's application.* The commissioner may file an application for ordinary or accidental disability on behalf of a member in service. The secretary shall review such applications in the same manner as those filed by a member. The fact that the commissioner has filed an application on a member's behalf shall not prevent the commissioner or the board from denying the application. All applications for accidental disability benefits shall be deemed cross-filed by the commissioner for the purpose of considering disability benefits. Nothing in this rule prevents the board from denying any application.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—401.2(97A) Determination on initial review.

401.2(1) *Board approval.* The board may approve or deny the application as presented or may direct the applicant to provide further medical information.

401.2(2) *Denial and appeal.* A decision by the board to deny the application may be appealed by the applicant. Written notice of a denial shall be provided to the applicant by certified mail. The written notice shall disclose the applicant's right to appeal, the procedure for filing an appeal, and the deadline for filing an appeal. An appeal must be filed in writing with the secretary within 30 calendar days after the applicant receives written notice of the decision of the board. The board may extend the deadline for filing an appeal. At a minimum, an appeal shall include a short and concise statement of the basis for the appeal.

661—401.3(97A) Applications for reimbursement for medical attention. Member beneficiaries may make application for reimbursement of the costs of medical attention as defined in rule 661—400.2(97A). This rule provides for the requirements of making application for reimbursement, the process for review and disposition of the application, and payment of approved applications.

401.3(1) *Making application.*

a. An application for reimbursement must be filed on a form provided by the secretary within 12 months of the member beneficiary's receiving treatment or incurring a cost for medical attention.

b. In the event there is a dispute with an insurance company regarding covered expenses, to remain eligible for reimbursement, the member beneficiary must file a request for extension, on a form provided by the secretary, if resolution of the dispute is expected to exceed 12 months.

c. Expenses shall only be reimbursed if the member beneficiary is retired as a result of an injury, illness or exposure occurring while in the performance of duty and is receiving a benefit as provided in Iowa Code section 97A.6(6).

d. Expenses shall be reimbursed only if the member beneficiary received medical attention for a condition with direct correlation to the disabling condition, the costs of which were not covered by insurance.

e. The system shall not reimburse for insurance premiums.

401.3(2) *Processing the application.*

a. Upon receipt of the application and supporting documentation, the secretary shall review the application for timeliness, completeness and validity. This subrule does not impose a responsibility on the secretary to discover documents or evidence not included on the application form.

b. The secretary shall refer the written application to the board for review at the next regularly scheduled meeting.

c. The member beneficiary does not need to be in attendance at the board meeting. In order to comply with Title II of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), specific information pertaining to an application for reimbursement or the member beneficiary's disabling condition will not be discussed in open forum of the board meeting unless the member beneficiary is present and approves discussion in a public meeting.

d. The board may approve or deny all or part of a reimbursement application. The board may request additional information to support the application for reimbursement or to determine the correlation of the expense to the disabling condition. The member beneficiary shall provide the documents to the secretary within a reasonable time period. In no case shall the application remain valid for a period of more than 12 months.

e. If the board denies any part of a request for reimbursement, the member beneficiary may request judicial review in accordance with Iowa Code section 97A.6(13).

f. The system will make reimbursements only to the member beneficiary or to the surviving spouse in the event the member beneficiary is deceased.

401.3(3) *Other provisions.*

a. Reimbursements for claimed expenses shall be reduced by any amount already received by the member beneficiary from workers' compensation or from a third party as a result of subrogation proceedings entered into as a result of the disabling injury.

b. In the event the member beneficiary is restored to active service pursuant to Iowa Code section 97A.6(7)*"b,"*consideration of reimbursement for expenses pursuant to Iowa Code section 97A.14 shall not extend beyond the date of restoration to active service.

c. If the member beneficiary receiving a disability retirement pursuant to Iowa Code section 97A.6(6) becomes employed in a public safety occupation pursuant to Iowa Code section 97A.6(7)*"d,"* consideration of reimbursement for expenses pursuant to Iowa Code section 97A.14 shall not extend beyond the date of employment with the employing jurisdiction.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—401.4 to **401.100** Reserved.

PROCEDURE FOR RULE MAKING

661—401.101(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the board are subject to the provisions of Iowa Code chapter 17A and the provisions of this chapter.

661—401.102(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the board may, before publication of a Notice of Intended Action, solicit comments from the public on a subject or subjects of possible rule making by the board by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment, or by otherwise publicizing the interest of the board in soliciting

comment on a subject or subjects of possible rule making. Any such effort shall include publication of the interest of the board on the department of public safety's website and may include publication in any other venue deemed appropriate by the board or officials or staff of the department.

661—401.103(17A) Public rule-making docket. Pursuant to Executive Order 9, the department maintains a current public rule-making docket. All rule-making activity of the board of trustees of the peace officers' retirement, accident, and disability system shall be included in the rule-making docket of the department, including a rule making which has formally commenced with a Notice of Intended Action and an anticipated rule making identified by the board or staff. The rule-making docket is maintained on the website of the department.

661—401.104(17A) Notice of proposed rule making.

401.104(1) *Contents.* At least 35 days before the adoption of rules, the agency rules administrator of the department shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

a. A brief explanation of the purpose of the proposed rules;

b. The specific legal authority for the proposed rules;

c. Except to the extent impracticable, the text of the proposed rules;

d. Where, when, and how persons may present their views on the proposed rules; and

e. The date, time and place of an oral proceeding at which any interested party may comment on the proposed rules, or where, when, and how persons may demand an oral proceeding on the proposed rules if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the department shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the board for the resolution of each of those issues.

401.104(2) *Incorporation by reference.* A proposed rule may incorporate other materials by reference.

661—401.105(17A) Public participation.

401.105(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or to the person or office designated in the Notice of Intended Action.

401.105(2) *Oral proceedings.* The department may, at any time, schedule an oral proceeding on a proposed rule. If an oral proceeding has not previously been scheduled regarding proposed rules, the department shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the department by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons.

An oral proceeding may be scheduled or conducted by the board at the discretion of the board or of the chair of the board.

401.105(3) *Conduct of oral proceedings.*

a. Applicability. This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1)*"b"* or this chapter.

b. Scheduling and notice. An oral proceeding on a proposed rule may be held in one or more locations and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. Presiding officer. The agency rules administrator of the department of public safety or the administrator's designee shall preside at the oral proceeding on a proposed rule, unless the board conducts

the oral proceeding. If the board does not conduct the oral proceeding, the presiding officer may prepare a memorandum for consideration by the board summarizing the contents of the presentations made at the oral proceeding if the administrator determines that such a memorandum would be helpful to the board.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the department at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and may be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Persons making oral presentations are encouraged to summarize matters which have already been submitted in writing.

(3) The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting.

(4) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the system.

(5) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing. The presiding officer may provide for the record of an oral proceeding to be held open for a specific length of time, announced at the oral proceeding, to allow for the submission of additional information.

(6) Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other representatives of the board who may be present about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(7) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

401.105(4) *Additional information.* In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the board may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

401.105(5) *Accessibility.* The department shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail, by telephone at (515)725-6185, or by electronic mail at admrule@dps.state.ia.us, in advance to arrange access or other needed services.

[Editorial change: IAC Supplement 6/17/09]

661—401.106(17A) Regulatory analysis. The agency rules administrator shall prepare a regulatory analysis of proposed rules in compliance with Iowa Code section 17A.4A if requested pursuant to Iowa Code section 17A.4A, subsection 1.

661—401.107(17A,25B) Fiscal impact statement. For each Notice of Intended Action or emergency adoption of rules filed, the staff of the system and the department shall develop a fiscal impact statement in compliance with Iowa Code section 17A.4, subsection 3, and procedures established by the legislative services agency, if the preparation of a fiscal impact statement is required.

661—401.108(17A) Time and manner of rule adoption.

401.108(1) *Time of adoption.* The board shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action, or the end of oral proceedings thereon, the board shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

Exception:

The board may waive the notice requirements or time periods specified in Iowa Code chapter 17A, in compliance with Iowa Code section 17A.4, subsection 2, or Iowa Code section 17A.5, subsection 2, paragraph *"b,"* or both.

401.108(2) *Consideration of public comment.* Before the adoption of a rule, the board shall consider fully all of the written submissions and oral submissions received in that rule-making proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in that rule-making proceeding.

401.108(3) *Reliance on department expertise.* Except as otherwise provided by law, the board may use its own experience, technical competence, specialized knowledge, and judgment, or that of department staff, in the adoption of a rule.

401.108(4) *Adoption by reference.* The board may, by adoption of an administrative rule, adopt by reference another document produced by the board, the department, another agency of Iowa government, a federal agency, or any other organization. If any document or portion of any document is adopted by reference and is not already available in the state law library, the department shall provide a copy of the document for filing in the state law library, in compliance with Iowa Code section 17A.6, subsection 4.

661—401.109(17A) Variance between adopted rule and published notice of proposed rule adoption.

401.109(1) The board shall not adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

a. The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and

b. The differences are a logical outgrowth of the contents of that Notice of Intended Action and the comments submitted in response thereto; and

c. The Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question.

401.109(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the board shall consider the following factors:

a. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;

b. The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action; and

c. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

401.109(3) The board shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless the board finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rule-making proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to petitioner, the administrative rules coordinator, and the administrative rules review committee, within three days of its issuance.

401.109(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the board to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

661—401.110(17A) Concise statement of reasons. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the board shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received. After a proper request, the board shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request. If the board does not meet during the time between the receipt of a request and the deadline for issuance of the concise statement, the staff may issue the concise statement with the approval of the board chair.
[Editorial change: IAC Supplement 6/17/09]

661—401.111(17A,97A) Agency rule-making record. The department shall maintain an official rule-making record for each rule proposed by the board by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference shall be available for public inspection. Requests to view material from the rule-making record may be addressed to the agency rules administrator of the department.

661—401.112(17A,97A) Petitions for rule making. Any person or agency may file a petition for rule making with the secretary at the location specified in rule 661—400.6(97A). A petition is deemed filed when it is received by the secretary. The secretary shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The secretary shall transmit a copy of the petition to the agency rules administrator. The petition must be typewritten or legibly handwritten in ink and should substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Petition by (name of petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the board's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 401.112(5).

401.112(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

401.112(2) The board may deny a petition because it does not substantially conform to the required form. However, the board may consider any petition received, regardless of errors or variations in form, provided that the content of the request for rule making is clear or has been clarified through communication with the petitioner. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

401.112(3) The petitioner may attach a brief to the petition in support of the action urged in the petition. The board may request a brief from the petitioner or from any other person concerning the substance of the petition.

401.112(4) Inquiries concerning the status of a petition for rule making may be made to the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or via electronic mail at admrule@dps.state.ia.us.

401.112(5) Upon request by petitioner in the petition, the chair of the board may schedule a brief and informal meeting between the petitioner and the board, a member of the board, the secretary, or other staff of the department to discuss the petition. Such meeting shall include the agency rules administrator of the department or another employee of the department knowledgeable about the administrative rule-making process who is jointly designated by the agency rules administrator and the director of the administrative services division of the department. The board may request the petitioner to submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the board by any person.

401.112(6) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall, in writing, deny the petition and notify petitioner of its action and the specific grounds for the denial or grant the petition and notify petitioner that it will institute rule-making proceedings on the subject of the petition. Notice shall be sent by the secretary to the petitioner by regular mail. Petitioner shall be deemed notified of the denial or granting of the petition on the date when the secretary mails the required notification to the petitioner.

401.112(7) Inquiries concerning the status of a petition for rule making may be made to the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or by electronic mail to admrule@dps.state.ia.us.

[Editorial change: IAC Supplement 6/17/09]

661—401.113(17A,97A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from the rule in question.

401.113(1) *Requests for waivers.* Requests for waivers of rules shall be addressed to the secretary. A request shall state specifically what provisions are requested to be waived, a concise statement of the reasons for requesting the waiver, and any conditions proposed to be placed on the waiver, including conditions which would substitute for compliance with the provisions requested to be waived.

401.113(2) *Applicability of rule.* The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

401.113(3) *Criteria for waiver.* In response to a petition completed pursuant to this rule, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

401.113(4) *Filing of petition.* A petition for a waiver must be submitted in writing to the board as follows:

a. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

b. If the petition does not relate to a pending contested case, the petition may be submitted with a caption containing the name of the person for whom the waiver is requested.

c. A petition is deemed filed when it is received in the secretary's office. A petition should be sent to the Board of Trustees, Peace Officers' Retirement, Accident, and Disability System, Attention: Secretary of the Board, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319-0050.

401.113(5) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, telephone number, and electronic mail address of the entity or person for whom a waiver is being requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner's legal representative, if any.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 401.113(3). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and the petitioner relating to benefits or potential benefits or eligibility requirements affected by the proposed waiver, including a description of each affected benefit or eligibility requirement held or requested by the requester, any formal charges filed, notices of violation, contested case hearings, or investigations relating to the membership in the system within the last five years.

f. Any information known to the requester regarding the board's action in similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which might be affected by the granting of a waiver.

h. The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition. This does not create any duty to individually notify other members of the system, unless they are known to have requested or received a waiver of the identical provisions.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

401.113(6) *Additional information.* Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a representative or representatives of the board related to the waiver request.

401.113(7) *Notice.* The secretary shall acknowledge a petition upon receipt and shall notify the members of the board, the legal counsel to the board and the agency rules administrator of the department of the receipt of the petition as soon as practical after its receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the pending petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, including the petitioner. In addition, the board may give notice to any other person. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and to provide a written statement to the board attesting that notice has been provided.

401.113(8) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to board proceedings for a waiver only when the board so provides by order or is required to do so by statute.

401.113(9) *Ruling.* An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person or legal entity and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. *Board discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

b. *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a rule.

c. *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. *Conditions.* The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

f. *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impractical. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

g. *Time for ruling.* The board shall grant or deny a petition for a waiver as soon as practical but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

i. *Service of order.* Within seven days of its issuance, any order issued under this rule shall be transmitted or delivered to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law. A copy of the order shall be provided to the agency rules administrator of the department to facilitate compliance with this rule.

401.113(10) *Indexing.* All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. If petitions or orders may contain information the board is authorized or required to keep confidential, the board may instruct the secretary to accordingly redact confidential information from petitions or orders prior to public inspection. Rules for which a petition for a waiver have been granted or denied are posted on the department's website and available to the public.

401.113(11) *Summary reports.* When the department grants a waiver, the department shall submit the required information on the department's website within 60 days. The department's website shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. To the extent practicable, the department shall include information detailing the extent to which the granting of waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

401.113(12) *Cancellation of a waiver.* A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

401.113(13) *Violations.* Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

401.113(14) *Defense.* After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

401.113(15) *Judicial review.* Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

401.113(16) *Sample petition for waiver.* A petition for waiver filed in accordance with this rule must meet the requirements specified herein and must substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Petition by (name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver). Also provide the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.

4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in the answer all of the following:

- Why application of the rule would result in undue hardship to the petitioner;
- Why waiver of the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the benefits or rights affected by the requested waiver. Include a description of each contested case hearing held, or any investigations related to the benefits or rights.

6. Provide information known to the petitioner regarding the board's action in similar cases.

7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

(Date) (Petitioner's Signature)

[Editorial change: IAC Supplement 6/17/09; **ARC 5975C**, IAB 10/20/21, effective 11/24/21]

661—401.114 to **401.200** Reserved.

DECLARATORY ORDERS

661—401.201(17A) Petition for declaratory order. Any person may file with the secretary a petition to the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board. A petition is deemed filed when it is received by that office. The secretary shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 661—401.207(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

661—401.202(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the department shall give notice of the petition to all persons not served by the petitioner pursuant to rule 661—401.206(17A) to whom notice is required by any provision of law. The department may also give notice to any other persons.

661—401.203(17A) Intervention.

401.203(1) Any person who qualifies under any applicable provision of law as an intervenor and who files a petition for intervention within 20 days of the filing of a petition for declaratory order (after time for notice under rule 661—401.202(17A) and before 30-day time for agency action under rule 661—401.208(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

401.203(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department.

401.203(3) A petition for intervention shall be filed with the secretary. Such a petition is deemed filed when it is received by the secretary. The department shall provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS'
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

661—401.204(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

661—401.205(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the secretary.

661—401.206(17A) Service and filing of petitions and other papers.

401.206(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

401.206(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the secretary. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the secretary.

401.206(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by subrule 401.301(7).

661—401.207(17A) Consideration. Upon request by petitioner, the department may schedule a brief and informal meeting between the original petitioner, all intervenors, and the board, a member of the board, or a member of the staff of the department to discuss the questions raised. The board may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the board by any person.

661—401.208(17A) Action on petition.

401.208(1) Within the time allowed by Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the commissioner of public safety or the commissioner's designee shall take action on the petition as required by Iowa Code section 17A.9(5).

401.208(2) The date of issuance of an order or of a refusal to issue an order is 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.

661—401.209(17A) Refusal to issue order.

401.209(1) The board shall not issue a declaratory order where prohibited by Iowa Code section 17A.9, subsection 1, and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with the required form.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.

c. The board does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

j. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

k. The petition relates to any criminal investigation.

l. The petition concerns any procedure or practice of the board or any other agency related to initiation or conduct of criminal investigations or referral of matters for possible criminal investigation or prosecution.

m. The petition states facts and circumstances which are theoretical in nature to the extent that issuance of a declaratory order is unlikely to assist in guiding future conduct or the petitioner is neither a person with interest in the operation of the system nor a representative of such a person. "Representative of such a person" includes any organization with members or participants who are active or retired members of the system, or family members or survivors of active or retired members of the system.

401.209(2) A refusal to issue a declaratory order shall indicate the specific grounds for the refusal, unless the refusal pertains to a matter under criminal investigation, or which has been referred for possible criminal prosecution, in which event no information which might compromise the investigation or prosecution shall be released to the petitioner or any intervenor. A refusal to issue a declaratory order constitutes final agency action on the petition.

401.209(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

661—401.210(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

661—401.211(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to each original petitioner and to each intervenor.

661—401.212(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board. The issuance of a declaratory order constitutes final agency action on the petition.

661—401.213 to **401.300** Reserved.

CONTESTED CASES

661—401.301(17A) Contested case proceeding. Consideration of an appeal of a decision of the board shall be a contested case proceeding subject to the provisions of Iowa Code chapter 17A.

401.301(1) *Delivery of notice.* Delivery of the notice of hearing by the secretary constitutes the commencement of a contested case proceeding. Delivery may be executed by regular mail. The notice shall be delivered to the applicant, the applicant's attorney if known, and the assistant attorney general designated to represent the public interest.

401.301(2) *Contents of notice.* The notice of hearing shall contain a statement of the time, place, and nature of the hearing. The notice shall contain a statement that it is the applicant's burden to prove each of the statutory elements relative to the application. The notice shall also contain a reference to the applicable statute and rules.

401.301(3) *Scope of issues.* The applicant shall prove each of the statutory elements required before the application may be granted. Denial of an application shall be upheld based on the applicant's failure to prove any of the statutory elements. When an applicant has requested accidental disability benefits, the board has the option of denying accidental disability benefits, but granting ordinary disability benefits based on the evidence.

401.301(4) *Legal representation.* Following the filing of the notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board. The public interest, as referenced in this rule, shall include the responsibility to protect the assets of the system from applications that do not meet the standards set by the statute for disability benefits. Any private party to a contested case shall be entitled to legal representation at the discretion and expense of that party.

401.301(5) *Presiding officer.* The presiding officer in a contested case shall be an administrative law judge assigned by the department of inspections and appeals.

401.301(6) *Procedural matters.* Procedural matters and motions, including, but not limited to, motions to continue, may be heard and ruled upon by the presiding officer.

401.301(7) *Service and filing.*

a. Service—when required. Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as attorney 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, subsection 2, the party filing a document is responsible for service on all parties.

b. Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by personal 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.

c. Filing—when required. After the notice of hearing, all documents in a contested case proceeding shall be filed with the secretary. All documents that are required to be served upon a party shall be filed simultaneously with the secretary.

d. Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the secretary at the location set forth in rule 661—400.6(97A), 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.

e. *Proof of mailing.* Proof of mailing includes either:
(1) A legible United States Postal Service postmark on the envelope;
(2) A certified mail return receipt;
(3) A notarized affidavit; or
(4) 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 Secretary of the Board of Trustees, Iowa Department of Public Safety, Peace Officers' Retirement System, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, 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)

[Editorial change: IAC Supplement 6/17/09]

661—401.302(17A) Discovery.

401.302(1) Pursuant to Iowa Code chapter 17A, 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.

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

661—401.303(17A) Subpoenas in a contested case. Pursuant to Iowa Code section 17A.13, subsection 1, the board or the presiding officer acting on behalf of the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearings and to compel the production of professional records, books, papers, correspondence and other records which are deemed necessary as evidence in connection with a contested case. A subpoena issued in a contested case under the board's authority may seek evidence whether or not privileged or confidential under law.

401.303(1) The board chair shall, upon the written request of the applicant or the state, issue a subpoena to compel the attendance of witnesses or to obtain evidence which is deemed necessary in connection with a contested case. A command to produce evidence may be joined with a command to appear at deposition or hearing or may be issued separately.

401.303(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:
a. The name, address and telephone number of the person requesting the subpoena;
b. The name and address of the person to whom the subpoena shall be directed;
c. The date, time, and location at which the person shall be commanded to attend and give testimony;
d. Whether the testimony is requested in connection with a deposition or hearing;
e. A description of the books, papers, records or other evidence requested;
f. The date, time and location for production, or inspection and copying.

401.303(3) Each subpoena shall contain, as applicable:
a. The caption of the case;
b. The name, address and telephone number of the person who requested the subpoena;
c. The name and address of the person to whom the subpoena is directed;
d. The date, time, and location at which the person is commanded to appear;
e. Whether the testimony is commanded in connection with a deposition or hearing;
f. A description of the books, papers, records or other evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;
h. The time within which a motion to quash or modify the subpoena must be filed;
i. The signature, address and telephone number of the board administrator or designee;
j. The date of issuance;
k. A return of service attached to the subpoena.

401.303(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

401.303(5) Any person who is aggrieved or adversely affected by compliance with the subpoena or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

401.303(6) Upon receipt of a timely motion to quash or modify a subpoena, the board chair shall request an administrative law judge to hold a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge may quash or modify the subpoena or deny the motion.

401.303(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board's secretary, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge. If the decision of the administrative law judge to quash or modify the subpoena or to deny the motion to quash or modify the subpoena is appealed to the board, the board may uphold or overturn the decision of the administrative law judge.

401.303(8) If the person contesting the subpoena is not the member whose application for benefits is the subject of the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the member whose application for benefits is the subject of the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

661—401.304(17A) Motions.

401.304(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.

401.304(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 board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

401.304(3) The presiding officer may schedule oral argument on any motion.

401.304(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 board or an order of the presiding officer.

401.304(5) Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served 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 rule 661—401.314(17A) and appeal pursuant to subrule 401.312(2).

661—401.305(17A) Settlements. A contested case may be resolved by informal settlement, and settlements are encouraged. Settlement negotiations may be initiated at any stage of a contested case by the assistant attorney general appointed to represent the public interest or by the applicant. The board shall not be involved in negotiation until a written proposed settlement is submitted for approval, unless both parties waive this prohibition.

661—401.306(17A) Prehearing conference.

401.306(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.

401.306(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.

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.

401.306(3) In addition to the requirements of subrule 401.306(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 that 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 that will expedite the hearing.

401.306(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.

661—401.307(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

401.307(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 presiding officer may waive notice of such requests for a particular case or an entire class of cases.

401.307(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.

661—401.308(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal shall be with prejudice.

661—401.309(17A) Hearing procedures.

401.309(1) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections.

401.309(2) All objections shall be timely made and stated on the record.

401.309(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

401.309(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.

401.309(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

401.309(6) Witnesses may be sequestered during the hearing.

401.309(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. The parties shall present their cases in the sequence determined by the presiding officer.

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law.

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

f. The presiding officer may enter a default judgment against a party who fails to appear at the hearing.

401.309(8) The presiding officer has the right to question a witness. Examination of witnesses by the presiding officer is subject to properly raised objections.

401.309(9) The hearing shall be open to the public, except as otherwise provided by law.

401.309(10) Oral proceedings shall be electronically recorded. Upon request, the board shall provide a copy of the whole or any portion of the audio recording at a reasonable cost. A certified shorthand reporter may be engaged to record the proceeding at the request of a party and at the expense of the party making the request. A transcription of the record of the hearing shall be made at the request of either party at the expense of the party making the request. The parties may agree to divide the cost of the transcription. A record of the proceedings, which may be either the original recording, a copy, or a transcript, shall be retained by the secretary for five years after the resolution of the case.

401.309(11) Default.

a. 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.

b. 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.

c. Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 401.312(2). A motion

to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

d. 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.

e. 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.

f. "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 1.977.

g. 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.

h. 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.

i. 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).

661—401.310(17A) Evidence.

401.310(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.

401.310(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

401.310(3) Evidence in the proceeding shall be confined to the contested issues as provided in Iowa Code section 97A.6.

401.310(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.

401.310(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.

401.310(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.

661—401.311(17A) Ex parte communication.

401.311(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. Nothing in this rule is intended to preclude board members from communicating with other board members or members of the board staff, including the secretary, other than those with a personal interest in, or those engaged in personally investigating, 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.

401.311(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 before the board.

401.311(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

401.311(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 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.

401.311(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.

401.311(6) The secretary may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the secretary is not disqualified from participating.

401.311(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.

401.311(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.

a. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order; or

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

401.311(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, subsection 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.

401.311(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule. Violation of ex parte communication prohibitions by staff shall be reported to the board and to the director of the administrative services division of the department.

661—401.312(17A) Decisions.

401.312(1) *Proposed decision.* The decision prepared by the presiding officer is a proposed decision. The proposed decision becomes the final decision of the board without further proceedings unless there is an appeal to, or review on motion of, the board within the time provided in subrule 401.312(2).

401.312(2) *Appeals and review.*

a. *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

b. *Review.* The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

c. *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. 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:

(1) The parties initiating the appeal;

(2) The proposed decision or order appealed from;

(3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

(4) The relief sought;

(5) The grounds for relief.

d. *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 board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

e. *Scheduling.* The board shall issue a schedule for consideration of the appeal.

f. *Briefs and arguments.* Unless otherwise ordered, briefs, if any, must be filed within five days of meeting.

661—401.313(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.

661—401.314(17A) Applications for rehearing.

401.314(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

401.314(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.

401.314(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

401.314(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.

401.314(5) *Disposition.* The board may meet telephonically to consider an application for rehearing. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

These rules are intended to implement Iowa Code chapters 17A and 97A.

[Filed 10/5/04, Notice 8/18/04—published 10/27/04, effective 12/1/04]

[Filed 9/20/06, Notice 7/19/06—published 10/11/06, effective 12/1/06]

[Editorial change: IAC Supplement 6/17/09]

[Filed Emergency After Notice ARC 8935B (Notice ARC 8767B, IAB 5/19/10), IAB 7/14/10, effective 7/1/10]

[Filed ARC 5975C (Notice ARC 5654C, IAB 6/2/21), IAB 10/20/21, effective 11/24/21]

CHAPTER 402
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—ELIGIBILITY, BENEFITS, AND PAYMENTS

[Prior to 10/27/04, see 581—Ch 24]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—402.1 to **402.99** Reserved.

DIVISION I
ELIGIBILITY

661—402.100(97A) Age of qualification. The age of qualification for benefits under Iowa Code Supplement chapter 97A shall mean the age on the member's last birthday.

661—402.101(97A) Date of retirement. Date of retirement shall mean the first day on retirement and not the last day on duty.

661—402.102(97A) Application of Iowa Code Supplement section 97A.6, subsection 12. Iowa Code Supplement section 97A.6, subsection 12, applies to the deceased member's spouse and children only if the spouse was married to the deceased member at or before the time of retirement and the children are the natural children of the deceased member or were legally adopted at or before the time of retirement of the member. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, then "surviving spouse" means a surviving spouse of a marriage of two years or more solemnized subsequent to the retirement of the member.

661—402.103(97A) Date of death. In the event of the death of a member, the date of death will be considered to be the member's last day on the payroll for earned compensation or on pension, and the next day following will be the first day for the spouse's and children's benefits. The start of benefits shall not be delayed by the payout of any other compensation.

661—402.104(97A) Age of spouse. When the spouse of a deceased active member is to receive an annuity payment from the member's contributions, the age of the spouse at the spouse's nearest birthday shall govern. The computation shall be the spouse's birth date subtracted from the first date that spouse's benefits begin to accrue.

661—402.105 to **402.199** Reserved.

DIVISION II
BENEFITS AND PAYMENTS

661—402.200(97A) Computation of average final compensation. Computation of the average final compensation shall be made using the earnable compensation of the member during the three years of the member's service as a member of the department during which the member received the highest amount of compensation. Overtime compensation, if any, and periods without pay shall not be considered in this computation.

Exception:

If a member retires before attaining three years of service, the average final compensation shall be the total of the earnable compensation from the date the member was sworn into service divided by the number of months of service and multiplied by 12.

661—402.201(97A) Workers' compensation—effect on benefit payment. If workers' compensation benefits are payable because of a member's disability or death, the retirement or death benefit payable, other than a line-of-duty death benefit paid pursuant to 661—Chapter 403, from the system shall be reduced by the actuarial equivalent of the total workers' compensation.

402.201(1) Monthly peace officers' retirement system benefits shall be reduced by the monthly benefit received from workers' compensation.

402.201(2) Peace officers' retirement system benefits shall be reduced in the amount of permanent partial disability benefits paid by workers' compensation. Benefits will be withheld in the amount of permanent partial disability benefits.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.202(97A) Errors in payments. If an error in payments already made to a member or beneficiary is discovered, arrangements shall be made to correct the error, either through recovery of overpayments from the member or beneficiary or through additional compensation paid to the member or beneficiary to adjust for underpayments. Schedules referenced in this rule shall commence only after presentation to and approval by the board of trustees.

402.202(1) As soon as practical after being discovered, underpayments shall be corrected through a lump-sum payment to the member or beneficiary in an amount equal to the total amount of underpayments to date and an amount of interest such that the total lump-sum payment is actuarially equivalent to the total amount of underpayments. The member or beneficiary may request a method of repayment other than a lump-sum payment, in which case a repayment schedule may be mutually agreed upon between the board and the member or beneficiary.

402.202(2) Overpayments other than those which resulted from fraudulent acts on the part of the member or beneficiary receiving the payments shall be recovered from the member or beneficiary. The preferred method of recovery, if the member or beneficiary is continuing to receive payments from the system, shall be withholding monthly an amount equivalent to the monthly average of the amount of overpayments during the period in which the overpayments were made, until total repayments equal a sum actuarially equivalent to the total amount of overpayment. If the member or beneficiary is not receiving payments from the system, the board may seek repayment in a lump sum including the amount of overpayments and interest in an amount such that the total repayment is actuarially equivalent to the total amount of overpayments, although the member or beneficiary may request a repayment schedule be established and the board may agree to do so.

402.202(3) An overpayment which resulted in whole or in part from a fraudulent act or acts on the part of the member or beneficiary receiving the payments shall be repaid to the system in an amount which is actuarially equivalent to the amount of the overpayment plus a reasonable assessment of the administrative costs to the system and the department to recover the overpayment. The preferred method of repayment is a lump-sum payment collected as soon as practical after the overpayment and the fraudulent act are discovered, although the board shall accept a repayment schedule established by a court which orders restitution in relation to a conviction stemming from the fraudulent act or acts. The board may agree to an alternative payment schedule at the request of the member or beneficiary if there is no applicable order of restitution.

The board may find, on the basis of clear and convincing evidence, that an overpayment resulted from a fraudulent act or acts on the part of a member or beneficiary. A conviction based upon a fraudulent act or acts committed in relation to the receipt of benefits from the system shall be prima facie evidence of fraud for purposes of this subrule.

661—402.203(97A) Initial benefit for a child. Initial benefit for a child as specified in Iowa Code Supplement section 97A.6, subsection 8, 9 or 12, shall be 6 percent of the monthly earnable compensation payable to an active member having the rank of senior trooper of the Iowa state patrol. A senior trooper, for the purposes of Iowa Code Supplement chapter 97A, is a peace officer having at least ten years of active service with the Iowa state patrol.

661—402.204(97A) Computation for partial month. Computation of retirement benefits for a partial month shall be based on the actual number of days in the month, i.e., monthly benefits divided by the number of days in the month multiplied by the number of days due.

661—402.205(97A) One year of service. For the purpose of computing service, service for fewer than six months of a year is not creditable as service. Service of six months or more in any year shall be equivalent to one year of service; however, in no case shall a member receive more than one year of service credit for each 12-month period of service.

661—402.206(97A) Termination prior to retirement.

402.206(1) Members who terminate covered employment prior to age 55 other than by death or disability have certain rights to their accumulated contributions.

a. A member with fewer than four years of service is not entitled to benefits under the system. A member terminating employment with less than four years of service has the following options for the handling of the member's contributions to the system:

(1) The member may withdraw the member's contributions along with accumulated interest.

(2) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.

(3) The member may leave the member's contributions in the system as long as the member continues to be a member of the system. A member ceases to be a member of the system should the member in any period of five consecutive years after last becoming a member be absent from service for more than four years. Should a member cease to be a member, the member's contributions shall be paid to the member as provided in this paragraph.

b. A member with four or more years of service is a "vested member" and is entitled to benefits under the system. The member's options under the system are as follows:

(1) Upon attaining retirement age, the member may receive a service retirement allowance of four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding 22 years of service. Should the member have over 22 years of service, upon the member's retirement there shall be added 2¾ percent of the member's average final compensation for each year over 22 years for up to 10 additional years of service. The amount of the retirement allowance shall be calculated in the manner provided in this subparagraph using the average final compensation at the time of termination of the member's employment.

(2) The member may withdraw the member's contributions pursuant to Iowa Code section 97A.16, along with accumulated interest.

(3) The member may have all or a part of the member's qualifying contributions along with accumulated interest rolled forward to a qualified retirement plan and may withdraw the balance of the member's contributions.

402.206(2) The interest rate shall be the composite rate of return for the fiscal year as reflected in the investment performance analysis, provided by the investment consultants for the system, as specified in the report for the quarter ending June 30 of the fiscal year, adjusted by the administrative expense of the system for the fiscal year. The administrative expense rate shall be calculated by dividing the actual administrative expense for the fiscal year by the fund balance on June 30 of the fiscal year.

402.206(3) Interest shall be credited to the member's account annually as of June 30. The interest credited to the member shall be calculated by multiplying the annual interest rate by the member's average balance for the fiscal year, with interest credited for each full month of membership.

402.206(4) Members withdrawing contributions under this rule shall submit a written request to the secretary.

661—402.207(97A) Optional retirement benefits. Members of the system who retire under a service retirement may elect to receive one of the following optional retirement benefits and have the optional retirement benefit or a designated fraction of the benefit paid to the member's beneficiary:

1. Straight life annuity.
2. Straight life annuity with five years certain.
3. Straight life annuity with ten years certain.
4. Joint and 50 percent survivor annuity.
5. Joint and 75 percent survivor annuity.
6. Joint and 100 percent survivor annuity.
7. Single life annuity with a designated lump sum.

For the purposes of this rule, a "beneficiary" means a member's spouse, child, or dependent parent.

661—402.208(97A) Options not reversible once payments begin—exceptions.

402.208(1) The member may change or cancel the member's selected optional benefit until the first monthly benefit payment is made using the selected option. After the first monthly payment to the member or beneficiary, the option shall become permanent and not subject to cancellation or change.

402.208(2) If a member dies without designating a beneficiary prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election is void.

402.208(3) If a member who has designated a beneficiary dies and the beneficiary subsequently dies prior to receipt in benefits of an amount equal to the total amount in the member's credit at the time of separation from service, the election remains valid.

661—402.209(97A) Method of calculating annual adjustments when optional retirement benefits are selected. Whenever an optional benefit as provided for in rule 661—402.207(97A) has been selected by a member, the annual adjustments provided for in Iowa Code Supplement section 97A.6, subsection 14, shall continue to be provided.

661—402.210(97A) Termination of benefits when optional retirement benefits are selected. Whenever an optional benefit as provided for in rule 661—402.207(97A) has been selected by a member, benefit payments shall terminate as follows, except as provided in rule 661—402.208(97A):

1. Straight life annuity. Upon the death of the retired member, all future retirement payments shall cease.
2. Straight life annuity with five years certain. Upon the death of the retired member, or five years from the member's original retirement date, whichever is later, all future retirement payments shall cease.
3. Straight life annuity with ten years certain. Upon the death of the retired member, or ten years from the member's original retirement date, whichever is later, all future retirement payments shall cease.
4. Joint and 50 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 50 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.
5. Joint and 75 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the beneficiary's annual annuity established at 75 percent of the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.
6. Joint and 100 percent survivor annuity. Upon the death of the retired member, the surviving beneficiary shall have the annual annuity continue at the member's amount. Upon the death of both the member and the beneficiary, all future retirement payments shall cease.
7. Single life annuity with a designated lump sum. Upon the death of the retired member, the beneficiary shall receive the single lump-sum payment, and all future retirement payments shall cease.

661—402.211(97A) Impact of optional benefit selections on child benefits. The selection of an optional retirement benefit by a member shall not change the benefit that a child of a deceased member would otherwise be eligible to receive.

661—402.212(97A) Method of calculating annual adjustment for members who retire on or after July 1, 2010. For members retiring on or after July 1, 2010, there shall be an adjustment occurring on July 1 for which the following applicable amount shall be added to the member's monthly allowance:

402.212(1) On the first July 1 following the retirement of a member, there shall be added to the monthly allowance the amount of $15. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(2) applies.

402.212(2) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $20. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(3) applies.

402.212(3) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 10 years, but less than 15 years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $25. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(4) applies.

402.212(4) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 15 years, but less than 20 years, prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $30. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(5) applies.

402.212(5) An additional $5 shall be added to the member's monthly allowance when the member's retirement date was at least 20 years prior to the effective date of the adjustment, the total adjustment to the member's monthly allowance then being $35.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.213(97A) Method of calculating annual adjustment for members who retired prior to July 1, 2010. For members having retired before July 1, 2010, there shall be an adjustment occurring on July 1 for which the following applicable amount shall be added to the member's monthly allowance:

402.213(1) For members having retired on or after July 2, 2009, but before July 1, 2010, there shall be added to the monthly pension allowance the amount of $15. There shall be no other adjustment to the monthly allowance under the provisions of this rule until the adjustment provided in subrule 402.212(2) applies.

402.213(2) For members having retired on or after July 2, 2008, but before July 2, 2009, no adjustment to the monthly allowance shall be made until the adjustment provided in subrule 402.212(2) applies.

402.213(3) For members having retired on or after July 2, 2007, but before July 2, 2008, no adjustment to the monthly allowance shall be made until the adjustment provided in subrule 402.212(5) applies.

402.213(4) For those members having retired on or before July 1, 2007, thus having received more than a total of $35 added to the monthly allowance, there shall be no additional adjustments made to monthly allowances. Adjustments having resulted in more than $35 added to the monthly allowance prior to July 1, 2010, shall not be considered overpayments, and the monthly allowances of members so affected shall not be reduced, nor shall members be required to repay any amount to the system.

NOTE: The following table summarizes the adjustments provided for in this rule.

Retirement Date	July 1 Monthly Allowance Adjustment	Adjustment Date
July 2, 2009 – June 30, 2010	$15.00	July 1, 2010
July 2, 2008 – July 1, 2009	$5.00	July 1, 2013
July 2, 2007 – July 1, 2008	$5.00	July 1, 2028
Retired before July 2, 2007	$0.00	Not applicable

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.214(97A) Determination of survivor's pension. For the purposes of determining a survivor's pension, the adjustments to monthly allowance provided in rules 661—402.212(97A) and 661—402.213(97A) shall be reduced in the same manner as is provided for the member's optional

retirement benefit election made under rule 661—402.207(97A) or as provided in Iowa Code section 97A.6(12).

NOTE: Section 17 of 2010 Iowa Acts, House File 2518, reads as follows:

Sec. 17. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—ADJUSTMENT OF PENSIONS PAYABLE. It is the intent of the general assembly that the applicable amount for each adjustment occurring on July 1 as provided in section 97A.6, subsection 14, paragraph "a", subparagraph (2), subparagraph division (a), shall be the exact dollar amount listed in each subparagraph subdivision of subparagraph division (a) for each July 1 in which that particular subparagraph subdivision applies and shall not be increased above the amount listed in that subparagraph subdivision for each year that the subparagraph subdivision applies. However, the applicable amount for each adjustment occurring on or after July 1, 2010, as provided by this section, shall not be less than the applicable amount for the adjustment for the previous July 1.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.215 to **402.299** Reserved.

DIVISION III
SERVICE PURCHASES

661—402.300(97A) Purchase of eligible service credit. Effective July 1, 2010, and no later than July 1, 2011, an active member may make application to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.301(97A) Determination of eligible service.

402.301(1) *Eligible qualified service.* "Eligible qualified service" means service as a member of a city fire retirement system or police retirement system operating under Iowa Code chapter 411 prior to January 1, 1992, for which service has not previously been credited. Eligible qualified service does not include service if the receipt of credit for such service would result in the member's receiving a retirement benefit under more than one retirement plan for the same period of service.

402.301(2) *Permissive service credit.*

a. Permissive service credit is credit that will be recognized by the system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the system, and for which the member voluntarily contributes to the system the amount required by the system, not in excess of the amount necessary to fund the benefit attributable to such service.

b. Permissive service credit shall be calculated in years at the rate of one year of service for six months or more of a year actually worked with no more than one year of service to be credited for all service in one calendar year.

c. An active member may make contributions to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service as determined by the system, pursuant to Internal Revenue Code Section 415(n).

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.302(97A) Determination of cost to member.

402.302(1) *Determination of service credit.* A member may determine the amount of permissive service credit, which shall be documented on a form provided by the secretary. Such documentation shall include the notarized certification by an official of the city or agency that employed the member and shall include periods of service and member retirement contributions to the former system during the indicated time of service. In the event member contribution information is not available from the employing city or agency, documentation may be provided in another form acceptable to the board. Acceptable documentation may include, but is not limited to, IRS form W-2, Social Security earnings statements, pay stubs or Iowa tax form 1040 or 1040A.

402.302(2) *Actuarial cost quote of permissive service credit.*

a. A member may submit certification of service credit to the secretary to obtain a cost quote of permissive service.

b. The secretary shall review and verify the submitted certification of service credit to ensure that the requirements of subrule 402.302(1) have been met.

c. When service credit has been verified, the secretary shall submit a request to the actuary contracted by the system to determine the cost to purchase permissive service credit.

d. A member may request cost quotes to purchase permissive service credit for a maximum of two time periods at no cost to the member.

e. If a member requests a third or subsequent cost quote, the member shall be required to pay for the cost of the quote.

f. A second or subsequent cost quote for the same period of permissive service credit shall replace all previous cost quotes for that time period.

g. If the requirements of subrule 402.302(1) cannot be verified, the request for a cost quote shall not be submitted to the actuary but rather shall be referred to the board for review at the next regularly scheduled meeting.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.303(97A) Application process.

402.303(1) *Actuarial cost quote of permissive service credit.* When made available to the secretary by the actuary, the cost quote shall be forwarded to the member promptly. Such delivery may be made through electronic mail, facsimile transmission, regular mail, or personal service. The cost quote of permissive service credit shall remain valid for six months from the date of the cost quote unless replaced by a subsequent cost quote for the same time period of permissive service credit.

402.303(2) *Submission of application to purchase permissive service credit.* The member may submit to the secretary an application to purchase years of permissive service credit in an amount no greater than the maximum certified years of permissive service credit at a rate quoted by the actuary less an amount equal to the member's contributions pursuant to Iowa Code chapter 411 for the period of eligible qualified service together with interest at a rate determined by the board. Full payment in the form of a check or money order payable to the Peace Officers' Retirement, Accident, and Disability System, or certification of intent to pay through a qualified plan, or a combination thereof, shall accompany the application to purchase permissive service credit. Contributions shall be made by the member within the six-month period the quote is valid.

402.303(3) *Acceptance of application to purchase permissive service credit.* If the application is accepted, the secretary shall deposit the full payment into the system's account and shall adjust the member's years of service and contributions to reflect the purchase of service. Prior to the receipt of full payment, the secretary shall make no adjustment to the member's years of service or contributions.

402.303(4) *Rejection of application to purchase permissive service credit.* If the application is rejected, the secretary shall refer the rejected application to the board for review at the next regularly scheduled meeting.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.304(97A) Service adjustment irrevocable. An adjustment of a member's years of service which has been completed pursuant to subrule 402.303(3) is irrevocable. However, this rule shall not be interpreted to limit the system's ability to refund service credit purchase amounts when required in order to meet the provisions of the Internal Revenue Code.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.305(97A) Board review.

402.305(1) *Review of rejection of certification of service credit.* The board shall review a rejected certification of service credit. If the board overrules the rejection, the secretary shall submit the certification of service credit to the actuary to determine the member's cost to purchase permissive service credit. If the board sustains the rejection, the member may appeal the action pursuant to 661—subrule 401.2(2).

402.305(2) *Review of rejection of application to purchase service credit.* The board shall review any application to purchase service credit which has been rejected. If the board overrules the action, the secretary shall process the application pursuant to subrule 402.303(3). If the board sustains the rejection, the secretary shall return the payment to the member. The member may appeal the action pursuant to 661—subrule 401.2(2).

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.306(97A) Other provisions.

402.306(1) Within 60 days following the entry of an adjustment to a member's years of service based on a purchase of permissive service credit, the secretary shall report the purchase to the system under which the service credit was originally earned.

NOTE: This notification is intended to meet the requirement that a member not receive a retirement benefit under more than one retirement plan for the same period of service.

402.306(2) The average final compensation of the member shall not be affected by the purchase of permissive service credit.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

661—402.307(97A) Purchase of service credit for military service.

402.307(1) *Eligibility.* Effective July 1, 2010, an active member of the system who has been a member of the retirement system five or more years may purchase service credit for military service under this chapter.

NOTE: Determination of length of active membership will be made pursuant to Iowa Code section 97A.3.

402.307(2) *Service eligible for purchase.* An eligible member may elect to purchase up to five years of service for military service that is not already recognized by the system or required to be recognized by the system under Internal Revenue Code Section 414(u) or the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

a. Permissive service credit shall be calculated in years at the rate of one year of service for six months or more of a year actually worked with no more than one year of service to be credited for all service in one calendar year.

b. A member may elect to purchase service credit for all or part of the member's eligible service up to the five-year limitation and limitations of Internal Revenue Code Section 415(n).

c. For purposes of this rule, "military service" means active duty service in any of the following:

(1) The United States Army, Navy, Marine Corps, Air Force or Coast Guard;

(2) The United States Army Reserves, Naval Reserves, Marine Corps Reserves, Air Force Reserves or Coast Guard Reserves;

(3) The Army National Guard or Air National Guard;

(4) The Commissioned Corps of the Public Health Service; or

(5) Any other category of persons designated by the President in a time of war or emergency.

402.307(3) *Application.* A member seeking to purchase service credit under this rule shall file a written application with the system requesting an actuarial determination of the purchase cost of the requested service credit. Applications shall be on forms provided by the secretary. The member shall include with the application:

a. Periods of military service for which credit is requested.

b. Proof of applicable military service. Records that may be acceptable for this purpose include the member's DD Form 214, discharge papers or other records as determined by the system.

c. Any other documentation reasonably requested by the system.

402.307(4) *Determination of cost to member.* Upon receipt of the written application and supporting documentation, the secretary shall review and verify the submitted documents. The secretary shall submit the application and pertinent member information to the actuary contracted by the system to determine the cost to purchase the military service. The cost of actuarial determinations shall be borne by the member, payable upon receipt of the cost quote.

402.307(5) *Application process.*

a. Actuarial cost quote of military service credit. When made available to the secretary by the actuary, the cost quote shall be forwarded to the member promptly. Such delivery may be made through electronic mail, facsimile transmission, regular mail, or personal service. The cost quote for purchase of credit for military service shall remain valid for six months from the date of the cost quote unless replaced by a subsequent cost quote for the same time period of military service.

b. Submission of application to purchase military service credit. The member may submit to the secretary an application to purchase years of military credit in a cumulative amount no greater than five years. Full payment in the form of a check or money order payable to the Peace Officers' Retirement, Accident, and Disability System, or certification of intent to pay through a qualified plan, or a combination thereof, shall accompany the application to purchase military service credit.

c. Acceptance of application to purchase military service credit. If the application is accepted, the secretary shall deposit the full payment in the system's account and shall adjust the member's years of service and contributions to reflect the purchase of credit for military service. Prior to the receipt of full payment, the secretary shall make no adjustment to the member's years of service or contributions.

402.307(6) *Revocation.* A member may revoke a service purchase election and receive a refund without interest of the purchase cost paid, provided that the revocation request is in writing and is received by the system no later than 60 days following the date of the receipt of the payment of the purchase cost by the system and prior to the date of the commencement of benefits to the member under Iowa Code section 97A.6.

402.307(7) *Refund when required by Internal Revenue Code.* This rule shall not be construed to limit the system's ability to refund service credit purchase amounts when required in order to meet the provisions of the Internal Revenue Code.

402.307(8) *Rejection of application to purchase military service credit.* If the application is rejected, the secretary shall refer the rejected application to the board for review at the next regularly scheduled meeting.

402.307(9) *Board review.* The board shall review any rejected application for purchase of military service credit. If the board overrules the action, the secretary shall process the application. If the board sustains the rejection, the secretary shall return the payment to the member. The member may appeal the action pursuant to 661—subrule 401.2(2).

402.307(10) *Average final compensation.* The average final compensation of the member shall not be affected by the purchase of credit for military service.

[**ARC 8935B**, IAB 7/14/10, effective 7/1/10]

These rules are intended to implement Iowa Code chapter 97A as amended by 2010 Iowa Acts, House File 2518 and Senate File 2318.

[Filed 10/5/04, Notice 8/18/04—published 10/27/04, effective 12/1/04]

[Filed emergency 6/26/06—published 7/19/06, effective 7/1/06]

[Filed 9/20/06, Notice 7/19/06—published 10/11/06, effective 12/1/06]

[Filed Emergency After Notice ARC 8935B (Notice ARC 8767B, IAB 5/19/10), IAB 7/14/10, effective 7/1/10]

CHAPTER 403
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM— LINE-OF-DUTY DEATH BENEFIT

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—403.1(97A) Member death benefit program. As provided in Iowa Code Supplement section 97A.6, subsection 16, the board will administer the payment of line-of-duty death benefits to beneficiaries of members who die in the line of duty.

Information about the program may be obtained by mail from the Secretary of the Board of Trustees, Iowa Department of Public Safety, Peace Officers' Retirement System, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by telephone at (515)725-6248, or by electronic mail to asdinfo@dps.state.ia.us.

[Editorial change: IAC Supplement 6/17/09]

661—403.2(97A) Application. Application forms for the line-of-duty death benefit program may be obtained on request from the secretary. The board may accept a legible copy of a completed application for the federal Public Safety Officer Benefits Program as an application for payment of benefits from the member death benefit program. Completed application forms shall be mailed or delivered to the Secretary of the Board of Trustees, Iowa Department of Public Safety, Peace Officers' Retirement System, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.

661—403.3(97A) Determination. After receiving a completed application for benefits from the member death benefit program, the board shall make a determination as to whether or not the application meets the requirements for payment of benefits. Prior to making a determination, the board may require the beneficiary or responsible supervisory official who has certified that the death is a line-of-duty death to submit any additional information that the board deems material to making the determination. If the determination is that the requirements for payment of benefits have been met, the board shall so notify the beneficiary or cobeneficiaries and shall instruct the secretary to prepare documents to cause the department of administrative services to issue a warrant payable to the beneficiary in the amount of the lump-sum payment provided or, if there are cobeneficiaries, to issue warrants in equal shares of the lump-sum amount payable to each of the cobeneficiaries. Payments pursuant to this rule shall come from the system's funds.

403.3(1) *Denial and notification.* If the board determines that the eligibility criteria have not been met, the board shall notify in writing the beneficiary or cobeneficiaries and the responsible supervisory official who certified that the death occurred in the line of duty of the determination and of the reason or reasons for the denial.

403.3(2) *Appeals.* If an application for benefits is denied, the beneficiary or any cobeneficiary may appeal that decision to the board by filing an appeal in writing to the secretary within 30 days of the date of the denial of the application by the board. Appeals shall be processed in accordance with contested case procedures specified in 661—Chapter 401.

These rules are intended to implement Iowa Code Supplement section 97A.6A(16).

[Filed 10/5/04, Notice 8/18/04—published 10/27/04, effective 12/1/04]

[Editorial change: IAC Supplement 6/17/09]

CHAPTER 404
PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM—TEMPORARY INCAPACITY
Rescinded IAB 7/14/10, effective 7/1/10

CHAPTERS 405 to 499
Reserved

CHAPTER 500
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—ORGANIZATION AND ADMINISTRATION
Transferred to 481—Chapter 400, IAC Supplement 7/9/25

CHAPTER 501
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—ADMINISTRATIVE PROCEDURES
Rescinded **ARC 7878C**, IAB 4/17/24, effective 5/22/24

CHAPTER 502
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING REQUIREMENTS, PROCEDURES, AND FEES
Transferred to 481—Chapter 401, IAC Supplement 7/9/25

CHAPTER 503
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—COMPLAINTS AND DISCIPLINE
Transferred to 481—Chapter 402, IAC Supplement 7/9/25

CHAPTER 504
STANDARDS FOR ELECTRICAL WORK
Rescinded **ARC 9033C**, IAB 3/19/25, effective 7/1/25

CHAPTER 505
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—EDUCATION
Transferred to 481—Chapter 403, IAC Supplement 7/9/25

CHAPTER 506
MILITARY SERVICE AND VETERAN RECIPROCITY FOR ELECTRICIANS AND ELECTRICAL CONTRACTORS
Rescinded **ARC 7882C**, IAB 4/17/24, effective 5/22/24

CHAPTERS 507 to 549
Reserved

CHAPTER 550
ELECTRICAL INSPECTION PROGRAM
Transferred to 481—Chapter 404, IAC Supplement 7/9/25

CHAPTER 551
ELECTRICAL INSPECTION PROGRAM—DEFINITIONS
Rescinded **ARC 9033C**, IAB 3/19/25, effective 7/1/25

CHAPTER 552
ELECTRICAL INSPECTION PROGRAM—PERMITS AND INSPECTIONS
Rescinded **ARC 9033C**, IAB 3/19/25, effective 7/1/25

CHAPTER 553
CIVIL PENALTIES
Rescinded **ARC 9033C**, IAB 3/19/25, effective 7/1/25

CHAPTERS 554 to 558
Reserved

CHAPTER 559
ELECTRICAL INSPECTION PROGRAM—UTILITY NOTIFICATIONS
AND RESPONSIBILITIES OF UTILITIES
Rescinded **ARC 9033C**, IAB 3/19/25, effective 7/1/25

CHAPTERS 560 to 599
Reserved

CHAPTER 600
STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM BOARD

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—600.1(80) Establishment of board. The Iowa statewide interoperable communications system board is established in Iowa Code section 80.28, under the joint purview of the department of public safety and the department of transportation. The board is charged to develop, implement, and oversee policy, operations, and fiscal components of communications interoperability efforts at the state and local levels, and to coordinate with similar efforts at the federal level, with the ultimate objective of developing and overseeing the operation of a statewide integrated public safety interoperable communications system.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.2(80) Definitions. The following definitions apply to the rules in this chapter:

"Board" means the statewide interoperable communications system board established in Iowa Code section 80.28.

"Interoperability" means the ability of public safety and public services personnel to communicate and to share data on an immediate basis, on demand, when needed, and when authorized.

"Legal counsel to the board" means the assistant attorney general assigned to provide legal advice and representation to the board.

"Quorum" means two-thirds or more of the current voting members of the board, as provided in Iowa Code section 17A.2, subsection 1. "Current voting members" does not include any board positions which are vacant.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.3(80) Statewide interoperability coordinator. The board may select and appoint a person who is not a member of the board as the statewide interoperability coordinator (or "SWIC") to coordinate work performed on behalf of the board and to complete tasks related to the mission of the board as assigned by the board or by the chairperson of the board with board approval.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.4(80) Board procedures. The board shall operate under the following procedures:

600.4(1) *Membership.* The board shall include 15 voting members and 4 ex officio, nonvoting members who are members of the Iowa general assembly, as provided in Iowa Code section 80.28.

600.4(2) *Meetings.*

a. The board shall meet at least once a quarter at a time and place determined by the board. Additional meetings may be called by:

(1) The chairperson,

(2) The vice chairperson, or

(3) By the statewide interoperability coordinator, at the request of five or more voting members of the board.

b. If a quorum is not present at a scheduled meeting of the board, the members of the board who are present may convene, may take testimony and public comment, and may engage in discussion of board business but shall not take any action other than to adjourn.

c. Notice of all meetings of the board shall be given in accordance with the provisions of Iowa Code section 21.4. In addition, notice of any scheduled board meeting and a tentative agenda of that meeting shall be posted on the Web site of the board prior to the scheduled time of the meeting.

d. All meetings of the board are public meetings and shall be conducted in accordance with Iowa Code section 21.3.

(1) A portion of any board meeting may be closed to the public for any of the reasons enumerated in Iowa Code section 21.5 and only subsequent to the procedures specified in Iowa Code section 21.5 to be followed by a public body in order to close a meeting to the public. If a board meeting has been closed to

the public, the board shall not adjourn while in closed session, but may do so only after the meeting has been reopened to the public.

(2) The chairperson or vice chairperson may extend invitations to subject matter experts or other parties to address items on the agenda of the board at meetings of the board.

(3) Members of the public shall be afforded an opportunity to address the board at each regular meeting during a period labeled "public comment period" on the agenda, subject to reasonable time limits established by the person presiding at the meeting.

(4) Remote telephonic access to a meeting of the board may be provided at the request of a board member or a member of the public.

e. Meetings of the board shall be conducted in accordance with Roberts Rules of Order, 10th edition.

600.4(3) *Officers.* Officers of the board shall be a chairperson and a vice chairperson.

a. Election of the chairperson and the vice chairperson shall take place at a regular meeting of the board.

b. The chairperson and the vice chairperson shall each be elected for a two-year term, commencing at the conclusion of the meeting at which the election takes place.

c. The chairperson and the vice chairperson shall each be a voting member of the board.

d. If the chairperson or the vice chairperson ceases to be a voting member of the board, or if the chairperson or the vice chairperson resigns from the position, the position shall become vacant. If the position of the chairperson becomes vacant, the vice chairperson shall become chairperson and shall serve the remainder of the two-year term to which the chairperson had been elected, and the position of vice chairperson shall become vacant. If the position of vice chairperson has become vacant, an election to fill the remainder of the two-year term shall be conducted at the next regular meeting of the board following the occurrence of the vacancy.

e. Election to the position of chairperson or vice chairperson shall require a majority of the voting members of the board who are present and voting at a meeting at which a quorum of the board is in attendance.

f. If the board fails to elect a chairperson or a vice chairperson at the board meeting when a term of office ends, the incumbent chairperson or vice chairperson shall continue to serve until a successor is elected.

[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.5(80) Administrative procedures. 661 Iowa Administrative Code Chapter 10 is hereby adopted by reference, with the following amendment:

600.5(1) Wherever the term "department," "department of public safety," "commissioner," or "commissioner of public safety" appears, substitute the term "board."

600.5(2) Reserved.

[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.6(80) Committees.

600.6(1) *Standing committees.* A standing committee may be created or disbanded by majority vote of the voting members of the board present at any board meeting.

a. The chairperson of each standing committee shall be a voting member of the board.

b. Persons who are not voting members of the board may serve on a standing committee.

c. The chairperson of the board, with approval of the board, shall appoint members of the standing committee.

600.6(2) *Ad hoc committees.* The chairperson may establish ad hoc committees for specific purposes and terms and may appoint persons to those committees in an advisory capacity based upon their expertise in the subject matter.

[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.7(80) Board finances. Operational expenses of the board and of the statewide interoperability coordinator shall be paid from funds available to the department of public safety or the department

of transportation, pursuant to an agreement between those agencies, except that expenses related to participation on the board by employees of state agencies shall be borne by their respective agencies.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.8(80) Contracts. The board may enter into contracts with other entities to carry out tasks in pursuit of the board's purpose. Any such contract shall be entered into subject to approval of the legal counsel to the board and shall comply with the rules of the department of administrative services and any other applicable state laws regarding purchases by state agencies.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.9(80) Competitive grants. If funds are available to the board to award grants on a competitive basis for projects to further the purposes of the board, the chairperson shall appoint an advisory committee to review grant applications. The chairperson of the advisory committee shall be a voting member of the board, although other members may be members of the board or other persons with expertise helpful in evaluating grant applications. The statewide interoperability coordinator shall, prior to the solicitation of applications for the grant funds and with the approval of the board, develop a grant application form and an evaluation methodology which shall be understandable and made available to any prospective applicant. The availability of grant funds shall be made known as widely as practicable prior to the deadline for accepting applications.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

661—600.10(80) Additional information. Additional descriptive and explanatory information about the board and its procedures and about interoperability issues may be found on the Web site of the board.

NOTE: The board Web site may be found at http://isicsb.iowa.gov/index.html.
[**ARC 9678B**, IAB 8/24/11, effective 10/1/11]

These rules are intended to implement Iowa Code section 80.29.

[Filed ARC 9678B (Notice ARC 9516B, IAB 5/18/11), IAB 8/24/11, effective 10/1/11]