

LABOR SERVICES DIVISION[875]

[Prior to 11/19/97, see Labor Services Division[347]]

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CHAPTER 1
DESCRIPTION OF ORGANIZATION AND
PROCEDURES BEFORE THE DIVISION

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 12/2/98, see 347—Ch 1]

Rescinded **ARC 8826C**, IAB 1/22/25, effective 2/26/25

*IOWA OCCUPATIONAL
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CHAPTER 2
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[Prior to 9/24/86, Labor, Bureau of [530] Ch 2]

[Prior to 10/7/98, see 347—Ch 2]

Rescinded **ARC 4639C**, IAB 8/28/19, effective 10/2/19

CHAPTER 3
POSTING, INSPECTIONS, CITATIONS AND PROPOSED PENALTIES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/19/29

875—3.1(88) Posting of notice; availability of the Act, regulations and applicable standards.

3.1(1) Each employer shall post and keep posted a notice or notices informing employees of the protections and obligations provided for in the Act, and that for assistance and information, including copies of the Act and of specific safety and health standards, employees should contact the employer or the department of inspections, appeals, and licensing, division of labor services. The notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to ensure that such notices are not altered, defaced or covered by other materials. The notice or notices will be furnished by the division of labor services.

Reproductions or facsimiles of the state poster shall constitute compliance with the posting requirements of Iowa Code section 88.6(3)“a” where such reproductions or facsimiles are at least 8½ inches by 14 inches, and the printing size is at least ten point. Whenever the size of the poster increases, the size of the print shall also increase accordingly. The caption or heading on the poster shall be in large type, generally not less than 36 point.

3.1(2) “Establishment” means a single physical location where business is conducted or where services or industrial operations are performed. Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and a separate notice or notices shall be posted in each such establishment. Where employers are engaged in activities that are physically dispersed, such as agriculture, construction, transportation, communications and electric, gas and sanitary services, the notice or notices required by this rule shall be posted at the location to which employees report each day. Where employees do not usually work at, or report to, a single establishment, such notice or notices shall be posted at the location from which the employees operate to carry out their activities.

3.1(3) Copies of the Act, all regulations published and all applicable safety and health rules are available from the division of labor services. If an employer has obtained copies of these materials from the division of labor services or the U.S. Department of Labor, the employer shall make them available upon request to any employee or authorized employee representative for review in the establishment where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized employee representative and the employer.

3.1(4) Any employer failing to comply with the provisions of this rule shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

This rule is intended to implement Iowa Code section 88.6(3)“a.”

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.2(88) Objection to inspection.

3.2(1) Upon a refusal to permit a compliance safety and health officer, in the exercise of official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records or to question any employer, owner, operator, agent or employee, or to permit a representative of employees to accompany the compliance safety and health officer during the physical inspection of any workplace, the compliance safety and health officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised. The compliance safety and health officer shall endeavor to ascertain the reason for such refusal and shall immediately report the refusal and the reason therefor to the labor commissioner or the commissioner’s designee. The labor commissioner shall promptly take appropriate action, including compulsory process, if necessary.

3.2(2) Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the labor commissioner or a designee, circumstances exist that make such preinspection process desirable or necessary.

3.2(3) For the purposes of this rule, the term “compulsory process” shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this rule.

This rule is intended to implement Iowa Code section 88.6(1).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.3(88) Entry not a waiver. Any permission to enter, inspect, review records or question any person shall not imply or be conditioned upon a waiver of any cause of action, citation or penalty under the Act. Compliance safety and health officers are not authorized to grant any such waiver.

This rule is intended to implement Iowa Code section 88.6(1).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.4(88) Advance notice of inspections.

3.4(1) Advance notice of inspections may not be given, except in the following situations:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

c. In circumstances where necessary to ensure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

d. In other circumstances where the labor commissioner or the commissioner’s designee determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

3.4(2) In situations described in subrule 3.4(1), advance notice of inspections may be given only if authorized by the labor commissioner or the commissioner’s designee, except that in cases of apparent imminent danger, advance notice may be given by the compliance safety and health officer without such authorization if the labor commissioner or the commissioner’s designee is not immediately available. When advance notice is given, it shall be the employer’s responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of the representative is known to the employer. An employer who fails to comply with the obligation under this rule promptly to inform the authorized representative of employees of the inspection may be subject to citation and penalty under Iowa Code section 88.14(3). Advance notice in any of the situations described in subrule 3.4(1) shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.14(6).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.5(88) Conduct of inspections.

3.5(1) At the beginning of an inspection, compliance safety and health officers shall present their credentials to the owner, operator or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records the compliance safety and health officers wish to review. However, such designation of records shall not preclude access to additional records.

3.5(2) Compliance safety and health officers shall have the authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection; employ other reasonable investigative techniques; and question privately any employer, owner, operator, agent or employee of the establishment. As used herein, the term “employ other reasonable investigative techniques” includes but is not limited to the use of cameras, audio and videotaping equipment, and devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

3.5(3) Compliance safety and health officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and they shall wear and use appropriate protective clothing and equipment.

3.5(4) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employer's establishment.

3.5(5) At the conclusion of the inspection, the compliance safety and health officer shall confer with the employer or representative and informally advise the employer or representative of any apparent safety or health violations disclosed by the inspection. During the conference, the employer shall be afforded an opportunity to bring to the attention of the compliance safety and health officer any pertinent information regarding conditions in the workplace.

This rule is intended to implement Iowa Code section 88.6(1).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.6(88) Representatives of employers and employees.

3.6(1) Compliance safety and health officers shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by employees shall be given an opportunity to accompany the compliance safety and health officer during the physical inspection of any workplace for the purpose of aiding the inspection. A compliance safety and health officer may permit additional employer representatives and additional representatives authorized by employees to accompany the compliance safety and health officer where the compliance safety and health officer determines that the additional representatives will further aid the inspection. A different employer and employee representative may accompany the compliance safety and health officer during each different phase of an inspection if this will not interfere with the conduct of the inspection.

3.6(2) Compliance safety and health officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this rule. If there is no authorized representative of employees, or if the compliance safety and health officer is unable to determine with reasonable certainty who is the representative, the compliance safety and health officer should consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3.6(3) A representative authorized by employees may be an employee of the employer. However, if in the judgment of the compliance safety and health officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, the third party may accompany the compliance safety and health officer during the inspection.

3.6(4) Compliance safety and health officers are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.6(4).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.7(88) Complaints by employees.

3.7(1) Any employee or representative of employees who believes that a violation of the Act exists in any workplace where the employee is employed may request an inspection of the workplace by giving notice of the alleged violation to the commissioner or a designee. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy shall be provided to the employer or agent by the commissioner's designee no later than at the time of inspection, except that, upon the request of the person giving the notice, the identity and the identities of individual employees referred to therein shall not appear in the copy or on any record published, released, or made available by the division of labor services.

3.7(2) If, upon receipt of notification, the commissioner or a designee determines that the complaint meets the requirements set forth in subrule 3.7(1), and that there are reasonable grounds to believe that the alleged violation exists, an inspection shall be made as soon as practicable to determine if the alleged violation exists. Inspections under this rule shall not be limited to matters referred to in the complaint.

3.7(3) During any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the compliance safety and health officer of any violation of the Act that the employee or representative has reason to believe exists in the workplace.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.8(88) Trade or governmental secrets.

3.8(1) At the commencement of an inspection, the employer may identify areas in the establishment that contain or that might reveal trade or governmental secrets. If the compliance safety and health officer has no clear reason to question such identification, information obtained in such areas shall not be disclosed except in accordance with the provisions of Iowa Code section 88.12.

3.8(2) Upon the request of an employer, any authorized representative of employees in an area containing trade or governmental secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no representative or employee, the compliance safety and health officer shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.12.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.9(88) Imminent danger. Whenever and as soon as a compliance safety and health officer concludes on the basis of an inspection that conditions or practices exist in any place of employment that could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act, the affected employees and employers shall be notified as provided in Iowa Code section 88.11(3). Appropriate citations and notices of proposed penalties may be issued with respect to an imminent danger, even though, after being informed of the danger by the compliance safety and health officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate the danger.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.10(88) Consultation with employees. Compliance safety and health officers may consult with employees concerning matters of occupational safety and health to the extent that the compliance safety and health officers deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act that the employee has reason to believe exists in the workplace to the attention of the compliance safety and health officer.

This rule is intended to implement Iowa Code sections 88.6(1) and 88.6(4).

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.11(88) Citations.

3.11(1) The civil penalties proposed by the labor commissioner on or after June 1, 2024, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than \$11,190 and shall not exceed \$161,323.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed \$161,323.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed \$16,131.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed \$16,131.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed \$16,131 per day.

f. Posting, reporting, or recordkeeping violation. The penalty for each posting, reporting, or recordkeeping violation under Iowa Code section 88.14(9) shall not exceed \$16,131.

3.11(2) Upon receipt of any citation under the Act, the employer shall immediately post the citation or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred,

except as provided in this rule. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, the citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employers are engaged in activities that are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employer shall take steps to ensure that the citation is not altered, defaced or covered by other material. Notices of de minimis violations need not be posted.

3.11(3) Each citation or a copy thereof shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a notice of intention to contest shall not affect the posting responsibility under this rule unless and until the employment appeal board issues a final order vacating the citation.

3.11(4) An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the employment appeal board and the notice may explain the reasons for the contest. The employer may also indicate that specified steps have been taken to abate the violation.

3.11(5) Any employer failing to comply with the provisions of subrules 3.11(2) and 3.11(3) shall be subject to citation and penalty in accordance with the provisions of Iowa Code section 88.14.

3.11(6) Any employer to whom a citation and notification of penalty have been issued may, under Iowa Code section 88.8, notify the commissioner of the employer's intention to contest the citation or notification of penalty. The notice of contest shall be in writing. The notice of contest shall be received by the division of labor services or postmarked no later than 15 working days after the receipt by the employer of the citation and notification of penalty. The notice of contest may be provided to the division of labor services by mail, personal delivery or facsimile transmission.

This rule is intended to implement Iowa Code chapter 88.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.12(88) Informal conferences. At the request of an affected employer, employee, or representative of employees, the labor commissioner or the commissioner's designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The settlement of any issue at the conference shall be subject to the rules of procedure prescribed by the employment appeal board. If the conference is requested by the employer, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's designee. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the labor commissioner or the commissioner's designee. Any party may be represented by counsel at the conference. No conference or request for a conference shall operate as a stay of any 15-working-day period for filing a notice of intention to contest.

This rule is intended to implement Iowa Code sections 17A.3(1) "b" and 17A.10.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.13(88) Petitions for modification of abatement date.

3.13(1) An employer may file a petition for modification of abatement date when the employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond its reasonable control.

3.13(2) A petition for modification of abatement date shall be in writing and shall include the following information:

a. All steps taken by the employer, and the dates of the action, in an effort to achieve compliance during the prescribed abatement period.

b. The specific additional abatement time necessary in order to achieve compliance.

c. The reasons the additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or why necessary construction or alteration of facilities cannot be completed by the original abatement date.

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

e. A certification that a copy of the petition and notice informing affected employees of their rights to party status has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with paragraph 3.13(3) “*a*” and a certification of the date upon which the posting and service was made. A notice in the following form shall be deemed to comply with this paragraph:

(Name of employer)

Your employer has been cited by the commissioner of labor for violation of the Iowa Occupational Safety and Health Act and has requested additional time to correct one or more of the violations. Affected employees are entitled to participate as parties under terms and conditions established by the Iowa employment appeal board in its rules of procedure. Affected employees or their representatives desiring to participate must file a written objection to the employer’s petition with the commissioner of labor. Failure to file the objection within ten working days of the first posting of the accompanying petition and this notice shall constitute a waiver of any further right to object to the petition or to participate in any proceedings related thereto. Objections shall be sent to the commissioner’s designee: Iowa OSHA, Division of Labor Services. All papers relevant to this matter may be inspected at: (place reasonably convenient to employees, preferably at or near workplace).

3.13(3) A petition for modification of abatement date shall be filed with the labor commissioner or the commissioner’s designee no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer’s statement of exceptional circumstances explaining the delay.

a. A copy of the petition and a notice of employee rights complying with paragraph 3.13(2) “*e*” shall be posted in a conspicuous place where all affected employees will have notice thereof or near the location where the violation occurred. The petition and notice of employee rights shall remain posted for a period of ten working days. Where affected employees are represented by an authorized representative, the representative shall be served with a copy of the petition and notice of employee rights.

b. Affected employees or their representatives may file an objection in writing to a petition with the labor commissioner or the commissioner’s designee. Failure to file the objection within ten working days of the date of posting of the petition and notice of employee rights or of service upon an authorized representative shall constitute a waiver of any further right to object to the petition.

c. The labor commissioner or the commissioner’s designee shall have the authority to approve any filed petition for modification of abatement date. Uncontested petitions shall become final orders pursuant to Iowa Code section 88.8.

d. The labor commissioner or the commissioner’s designee shall not exercise approval power until the expiration of 15 working days from the date the petition and notice of employee rights were posted or served by the employer.

3.13(4) Where any petition is objected to by the labor commissioner or the commissioner’s designee or affected employees, the petition, citation, and any objections shall be forwarded to the employment appeal board within 3 working days after the expiration of the 15-day period set out in paragraph 3.13(3) “*d.*”

This rule is intended to implement Iowa Code section 88.8.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.14 to 3.18 Reserved.

875—3.19(88) Abatement verification.

3.19(1) *Scope and application.* This rule applies to employers who receive a citation for a violation of the Iowa occupational safety and health Act.

3.19(2) *Definitions.*

“*Abatement*” means action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by OSHA during an inspection.

“*Abatement date*” means:

1. For an uncontested citation item, the latest of:

- The date in the citation for abatement of the violation;
 - The date approved by OSHA or established in litigation as a result of a petition for modification of the abatement date (PMA); or
 - The date established in a citation by an informal settlement agreement.
2. For a contested citation item for which the employment appeal board has issued a final order affirming the violation, the latest of:
- The date identified in the final order for abatement;
 - The date computed by adding the period allowed in the citation for abatement to the final order date; or
 - The date established by a formal settlement agreement.

“Affected employees” means those employees who are exposed to the hazard(s) identified as a violation(s) in a citation.

“Final order date” means:

1. For an uncontested citation item, the fifteenth working day after the employer’s receipt of the citation;
2. For a contested citation item:
 - The thirtieth day after the date on which a final order was entered by the employment appeal board, or
 - The date on which a court issues a decision affirming the violation in a case in which a final order of the employment appeal board has been stayed.

“Movable equipment” means a handheld or nonhandheld machine or device, powered or unpowered, that is used to do work and is moved within or between work sites.

3.19(3) Abatement certification.

a. Within ten calendar days after the abatement date, the employer must certify to the division that each cited violation has been abated, except as provided in paragraph 3.19(3) *“b.”*

b. The employer is not required to certify abatement if the compliance safety and health officer during the on-site portion of the inspection:

- (1) Observes, within 24 hours after a violation is identified, that abatement has occurred; and
- (2) Notes in the citation that abatement has occurred.

c. The employer’s certification that abatement is complete must include, for each cited violation, in addition to the information required in subrule 3.19(8), the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

3.19(4) Abatement documentation. The employer must submit to the division, along with the information on abatement certification required by paragraph 3.19(3) *“c,”* documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the division indicates in the citation that the abatement documentation is required.

3.19(5) Abatement plans.

a. The division may require an employer to submit an abatement plan for each cited violation (except an other-than-serious violation) when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so indicate.

b. The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

3.19(6) Progress reports.

a. An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

- (1) That periodic progress reports are required and the citation items for which they are required;
- (2) The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan;
- (3) Whether additional progress reports are required; and

(4) The date(s) on which additional progress reports must be submitted.

b. For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

3.19(7) Employee notification.

a. The employer must inform affected employees and their representative(s) about abatement activities covered by this rule by posting a copy of each document submitted to the division or a summary of the document near the place where the violation occurred.

b. Where posting does not effectively inform employees and their representatives about abatement activities (for example, for employers who have mobile work operations), the employer shall:

(1) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

(2) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the division.

c. An employee or an employee representative shall submit a request to examine and copy abatement documents within three working days of receiving notice that the documents have been submitted. The employer shall comply with an employee's or employee representative's request to examine and copy abatement documents within five working days of receiving the request.

d. The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the division and that abatement documents are:

(1) Not altered, defaced, or covered by other material; and

(2) Remain posted for three working days after submission to the division.

3.19(8) Transmitting abatement documents.

a. The employer must include, in each submission required by this rule, the following information:

(1) The employer's name and address;

(2) The inspection number to which the submission relates;

(3) The citation and item numbers to which the submission relates;

(4) A statement that the information submitted is accurate; and

(5) The signature of the employer or the employer's authorized representative.

b. The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the division receives the document is the date of submission.

3.19(9) Movable equipment.

a. For serious, repeat, and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the work site or between work sites. Attaching a copy of the citation to the equipment is deemed to meet the tagging requirement of this paragraph as well as the posting requirement of rule 875—3.11(88).

b. The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued. A sample tag is available at osha.gov as Appendix C to 29 CFR 1903.19.

c. If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment:

(1) For handheld equipment, immediately after the employer receives the citation; or

(2) For nonhandheld equipment, prior to moving the equipment within or between work sites.

d. For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 29 CFR 1926.200(h) is deemed by OSHA to meet the requirements of this rule when the information required by paragraph 3.19(9) "b" is included on the tag.

e. The employer must ensure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

f. The employer must ensure that the tag or copy of the citation attached to movable equipment remains attached until:

(1) The violation has been abated and all abatement verification documents required by this regulation have been submitted to the division;

(2) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

(3) The appeal board issues a final order vacating the citation.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.20(88) Policy regarding employee rescue activities.

3.20(1) No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

a. The employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations, and the employer fails to provide protection of the safety and health of the employee, including failing to provide appropriate training and rescue equipment; or

b. The employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties, and the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

c. The employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual. Additionally, the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

3.20(2) For purposes of this policy, the term "imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.21 Reserved.

875—3.22(88,89B) Additional hazard communication training requirements.

3.22(1) *Training format.* The employer may present the training program to the employee in any format; however, the employer shall preserve a written summary and synopsis of the training, a recording of an oral presentation, or a video recording of an audio-video presentation of the training relied upon by the employer for compliance with 29 CFR 1910.1200(h), and shall allow employees and their designated representatives access to the written synopsis, recording, or video recording.

3.22(2) *Review by the division.* The training program shall be available for review and approval upon inspection by the division. Upon request by the commissioner, the employer shall make available the written synopsis, recording, or video recording used or prepared by the employer. The commissioner may conduct an inspection to review an actual training program or review the employer's records of a training program.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

875—3.23(88) Definitions. The definitions and interpretations contained in Iowa Code section 88.3 shall be applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

"Act" means the Iowa occupational safety and health Act of 1972, Iowa Code chapter 88.

"Compliance safety and health officer" means a person authorized by the labor commissioner of the department of inspections, appeals, and licensing, division of labor services, to conduct inspections.

"Division" means the Iowa division of labor of the department of inspections, appeals, and licensing.

"Inspection" means any inspection of an employer's factory, plant, establishment, construction site or other area, workplace or environment where work is performed by an employee of an employer, and

includes any inspection conducted pursuant to a filed complaint, and any follow-up inspection, accident investigation or other inspections conducted under the Act.

“*Working days*” means Mondays through Fridays but shall not include Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice shall not be included, and the last day of the 15 working days shall be included.

This rule is intended to implement Iowa Code section 88.6.

[ARC 8112C, IAB 7/10/24, effective 6/19/24]

These rules are intended to implement Iowa Code chapters 17A and 88.

[Filed August 29, 1972]

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CHAPTER 4
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 4]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/19/29

875—4.1(88) Purpose and scope. This chapter applies to public and private employers.
[ARC 8113C, IAB 7/10/24, effective 6/19/24]

875—4.2(88) First reports of injury. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation will forward all reports to the division of labor services.
[ARC 8113C, IAB 7/10/24, effective 6/19/24]

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 through 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

- a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
- b. 67 Fed. Reg. 44047 (July 1, 2002)
- c. 67 Fed. Reg. 77170 (December 17, 2002)
- d. 68 Fed. Reg. 38606 (June 30, 2003)
- e. 79 Fed. Reg. 56186 (September 18, 2014)
- f. 81 Fed. Reg. 29691 (May 12, 2016)
- g. 81 Fed. Reg. 31854 (May 20, 2016)
- h. 84 Fed. Reg. 405 (January 25, 2019)
- i. 84 Fed. Reg. 21457 (May 14, 2019)
- j. 85 Fed. Reg. 8731 (February 18, 2020)
- k. 88 Fed. Reg. 47254 (July 21, 2023)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

- a. Completing the incident report form and faxing or emailing the completed form to Iowa OSHA in the department of inspections, appeals, and licensing;
- b. Calling 877.242.6742; or
- c. Visiting 6200 Park Avenue, Suite 100, Des Moines, Iowa.

[ARC 8113C, IAB 7/10/24, effective 6/19/24]

These rules are intended to implement Iowa Code chapter 88.

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effective 6/19/24]

CHAPTER 5
RULES OF PRACTICE FOR OSHA VARIANCES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 374—Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—5.1(17A,88) Purpose and scope. This chapter contains rules of practice for administrative proceedings to grant variances and other relief under Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7).

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.2(17A,88) Definitions. The definitions and interpretations contained in Iowa Code section 88.3 are applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

“*Affected employee*” means an employee who would be affected by the grant or denial of a variance, or any one of the employee’s authorized representatives, such as the collective bargaining agent.

“*Commissioner*” means the labor commissioner of the department of inspections, appeals, and licensing, division of labor services.

“*Hearing examiner*” means the commissioner or the commissioner’s designee.

“*Party*” means a person admitted to participate in a hearing conducted in accordance with rules 875—5.14(88) through 875—5.21(88). An applicant for relief and any affected employee are entitled to be named parties. For the purpose of special variance hearing procedures under Iowa Code section 88.5(7), the conflicting federal regulatory agency is also a party. The department of inspections, appeals, and licensing, division of labor services, is a party without the necessity of being named.

“*Person*” means an individual, partnership, association, corporation, business trust, legal representative, an organized group of individuals, or an agency, authority or instrumentality of the state of Iowa.

“*Variance*” means waivers or variances pursuant to Iowa Code sections 17A.9A, 88.5(3), 88.5(6), and 88.5(7) unless otherwise specified.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.3 Reserved.

875—5.4(88) Effect of variances. All variances granted pursuant to this chapter have only future effect. The commissioner may discretionarily decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employer involved, and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the employment appeal board until the completion of such proceedings.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.5(17A,88) Submission of waiver information. Information about all orders granting or denying a variance petition are submitted to the legislative services agency through the designated Internet site within 60 days of the granting or denying of the petition. The information submitted is available to the public via the website.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.6 Reserved.

875—5.7(88) Temporary variance.

5.7(1) Application for variance. Any employer or class of employers desiring a variance from a standard, or portion thereof, authorized by Iowa Code section 88.5(3) may file a written application containing the information specified in subrule 5.7(2) with the commissioner.

5.7(2) Contents. An application filed pursuant to subrule 5.7(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. Any request for a hearing as provided in this chapter;
- d. The statements and certifications required by Iowa Code section 88.5(3); and
- e. The signature of the applicant or the applicant's authorized representative.

5.7(3) Interim order.

a. *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The commissioner may rule ex parte upon the application.

b. *Notice of denial of application.* If an application filed pursuant to paragraph 5.7(3) "a" is denied, the applicant will be given prompt notice of the denial, which will include, or be accompanied by, a brief statement of the grounds therefor.

c. *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order will be served upon the applicant for the order and other parties and notice of the terms of the order will be made in accordance with the notice requirements of rule 875—5.5(88). It shall be a condition of the order that the affected employer shall give notice thereof to affected employees.

This rule is intended to implement Iowa Code section 88.3.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.8(88) Permanent variance.

5.8(1) Application for variance. Any employer or class of employers desiring a variance authorized by Iowa Code section 88.5(6) may file a written application containing the information specified in subrule 5.8(2) with the commissioner.

5.8(2) Contents. An application filed pursuant to subrule 5.8(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;
- c. A description of the conditions, practices, means, methods, operations or processes used or proposed to be used by the applicant;
- d. A statement showing how the conditions, practices, means, methods, operations or processes used or proposed to be used would provide employment and places of employment to employees that are as safe and healthful as those required by the standard from which a variance is sought;
- e. A certification that the applicant has informed affected employees of the application by (1) giving a copy thereof to their authorized representative; (2) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (3) other appropriate means when necessary;
- f. Any request for a hearing, as provided in this chapter;
- g. A description of how employees have been informed of the application and of their right to petition the commissioner for a hearing; and
- h. The signature of the applicant or the applicant's authorized representative.

5.8(3) Interim order. Procedures for applications and for notifications of a denial or grant of interim orders are in the same manner as provided for in subrule 5.7(3).

This rule is intended to implement Iowa Code section 88.6.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.9(88) Special variance.

5.9(1) Application for variance. Any employer, or class of employers, desiring a special variance authorized by Iowa Code section 88.5(7) may file a written application containing the information specified in subrule 5.9(2) with the commissioner.

5.9(2) Contents. An application filed pursuant to subrule 5.9(1) includes:

- a. The name and address of the applicant;
- b. The address of the place or places of employment involved;

- c. The name of the federal agency and a designation of the standard, rule, or regulation allegedly in conflict with a standard, rule, or regulation of the division of labor services;
- d. A designation of the standard, rule, or regulation of the division of labor services allegedly in conflict;
- e. A description of the conditions, means, methods, operations, and procedures used and a specific detailed statement as to how and where the conflict exists between federal agency or agencies and the division of labor services;
- f. A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;
- g. A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would take into consideration the safety and health of the employees involved;
- h. A certification that the applicant has informed employees affected of the application by (1) giving a copy thereof to their authorized representative; (2) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (3) other appropriate means where necessary;
- i. Any request for a hearing, as provided in this chapter;
- j. A description of how employees have been informed of the application and of their right to petition the commissioner for a hearing; and
- k. The signature of the applicant or the applicant's authorized representative.

5.9(3) *Interim order.* Procedures for applications and for notifications of a denial or grant of interim orders are in the same manner as provided for in subrule 5.7(3).

This rule is intended to implement Iowa Code section 88.7.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.10(88) Modification and revocation of rules or orders.

5.10(1) An affected employer or an affected employee may apply in writing to the commissioner for a modification or revocation of a rule or order issued under Iowa Code section 88.5(3), 88.5(6), or 88.5(7). The application contains:

- a. The name and address of the applicant;
- b. A description of the relief that is sought;
- c. A statement setting forth with particularity the grounds for relief;
- d. If the applicant is an employer, a certification that the applicant has informed affected employees of the application by: (1) giving a copy thereof to their authorized representative; (2) posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and (3) other appropriate means when necessary;
- e. If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employer; and
- f. Any request for a hearing as provided in this chapter.

5.10(2) The commissioner may move to modify or revoke a rule or order issued under Iowa Code section 88.5(3), 88.5(6), or 88.5(7). In such event, the commissioner will cause a notice of intention to be published in accordance with the notice requirements of rule 875—5.5(88), affording interested persons an opportunity to submit written data, views or arguments regarding the proposal and informing the affected employer and employees of their right to request a hearing, and other action as may be appropriate to notify the affected employer and employees. Any request for a hearing shall include a short and plain statement of:

- a. How the proposed modification or revocation would affect the requesting party; and
- b. What the requesting party would seek to show on the subjects or issues involved.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.11(88) Action on applications. If an application filed pursuant to subrule 5.7(1), 5.8(1), 5.9(1), or 5.10(1) does not conform to the applicable rule, the commissioner may deny the application. Prompt notice

of the denial of an application will be given to the applicant and will include, or be accompanied by, a brief statement of the grounds for the denial. A denial of an application pursuant to this rule shall be without prejudice to the filing of another application.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.12(88) Requests for hearings on applications.

5.12(1) *Request for hearing.* Within the time allowed by a notice of the filing of an application, any affected employer or employee may file with the commissioner a request for a hearing on the application.

5.12(2) *Contents of a request for a hearing.* A request for a hearing filed pursuant to subrule 5.12(1) includes:

a. A concise statement of facts showing how the employer or employee would be affected by the requested relief;

b. A specification of any statement or representation in the application that is denied and a concise summary of the evidence that would be adduced in support of each denial; and

c. Any views or arguments on any issue of fact or law presented.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.13(88) Consolidation of proceedings. The commissioner may move or any party may move to consolidate or contemporaneously consider two or more proceedings that involve the same or closely related issues.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.14(88) Notice of hearing.

5.14(1) *Contents.* A notice of hearing includes:

a. The time, place, and nature of the hearing;

b. The legal authority under which the hearing is to be held; and

c. A specification of issues of fact and law.

5.14(2) Reserved.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.15(88) Manner of service. Service of any document upon any party may be made by personal delivery of, or by mailing, a copy of the document to the last-known address of the party. The person serving the document certifies the manner and the date of the service.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.16(88) Hearing examiner; powers and duties.

5.16(1) *Powers.* The commissioner or the commissioner's designee presides over the hearing and has all powers necessary or appropriate to conduct a fair, full, and impartial hearing.

5.16(2) *Private consultation.* Except to the extent required for the disposition of ex parte matters, the hearing examiner may not consult a person or a party on any fact at issue unless upon notice and opportunity for all parties to participate.

5.16(3) *Disqualification.* When the commissioner or the commissioner's designee deems appropriate to be disqualified to preside, or to continue to preside, over a particular hearing the commissioner or the commissioner's designee will withdraw therefrom by notice on the record, and the commissioner shall designate another.

Any party who deems the commissioner or commissioner's designee for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the commissioner a motion for disqualification and removal, supported by affidavits setting forth the alleged ground for disqualification. The commissioner's ruling on the motion is final for the purposes of judicial review under rule 875—5.24(88).

5.16(4) *Contumacious conduct; failure or refusal to appear or obey the rulings of the hearing examiner.* Contumacious conduct at any hearing before the hearing examiner is a ground for exclusion from the hearing.

If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

5.16(5) *Referral to Iowa rules of civil procedure.* On any procedural question not regulated by Iowa Code chapter 88 or this chapter, the hearing examiner is guided by the Iowa Rules of Civil Procedure. [ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.17(88) Prehearing conferences.

5.17(1) *Convening conference.* Upon the commissioner's own motion or the motion of a party, the commissioner or the commissioner's designee may direct the parties or the parties' counsel to meet with the commissioner for a conference to consider:

- a. Simplification of the issues;
- b. Necessity or desirability of amendments to documents for purpose of clarification, simplification, or limitation;
- c. Stipulations, admissions of fact and of contents and authenticity of documents;
- d. Limitation of the number of parties and of expert witnesses; and
- e. Such other matters as may tend to expedite the disposition of the proceeding and to ensure a just conclusion thereof.

5.17(2) *Record of conference.* The commissioner or the commissioner's designee shall make an order that recites the action taken at the conference.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.18(88) Consent findings and rules or orders.

5.18(1) *Negotiation by parties.* A reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding.

5.18(2) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the hearing examiner may accept such agreement by issuing a decision based upon the agreed findings.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.19(88) Discovery. Whenever appropriate to a just disposition of any issue in a hearing, the hearing examiner may allow discovery by appropriate procedures, such as by written interrogatories upon a party, depositions, production of documents by a party, or by entry for inspection of the employment or place of employment involved. Iowa Rules of Civil Procedure are applicable to such authorized discovery procedures.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.20(88) Hearings.

5.20(1) *Order of proceeding.* Except as may be ordered otherwise by the hearing examiner, the party applicant for relief proceeds first at a hearing.

5.20(2) *Burden of proof.* The party applicant has the burden of proof.

5.20(3) *Evidence.*

a. *Proof for a special variance.* Before a special variance may be granted, there must be proof that an actual conflict does exist. The proof required to establish such conflict is information in writing or oral testimony from a representative of the involved federal regulatory agency or agencies, substantiated by evidence, that there is a conflict between the standards, rules or regulations of the federal agency and those of the division of labor services. Also, the applicant must prove that compliance with the standard, rule or regulation of the division of labor services would subject the applicant to probable citation, penalty, or prosecution for violating such federal agency standard, rule or regulation.

b. Reserved.

5.20(4) *Transcript.* Hearings are stenographically reported or audio-recorded. Copies of the transcript may be obtained by the parties upon written application filed with the reporter and upon the payment of fees at the rate provided in the agreement with the reporter.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.21(88) Decisions of hearing examiner.

5.21(1) *Proposed findings of fact, conclusions, and rules or orders.* Within ten days after receipt of notice that the transcript of the testimony has been filed or such additional time as the hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and rule or order, together with supporting briefs served on all other parties, and refer to all portions of the record and to all authorities relied upon in support of each proposal.

5.21(2) *Decision.* Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rule or order, the hearing examiner will issue a decision that will be reviewed and countersigned by the commissioner. The commissioner will serve the decision upon each party, and the decision is final upon the twentieth day after service thereof. The decision will include: (1) a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and (2) the appropriate rule, order, relief or denial thereof.

5.21(3) *Grant of a special variance.* The grant of a special variance is renewable upon review by the commissioner at six-month intervals beginning on the date the decision becomes final under subrule 5.21(2). If at the time of the review the commissioner finds that there has been a change in the standard, rule, or regulation or a change in the interpretation of such standard, rule or regulation of the federal agency or the division of labor services affecting or resolving the conflict on which the special variance was granted, the commissioner will set the case for an evidentiary hearing in accordance with rules 875—5.14(88) through 875—5.21(88). Enforcement is stayed during review and hearing procedures under this rule.

Affected employees shall be notified by their employer of a renewal or a refusal to renew by: (1) giving a copy of the commissioner's notice to the authorized employee representative; (2) posting a copy of the commissioner's notice at the place or places where notices to employees are normally posted; and (3) other appropriate means.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.22(88) Motion for summary decision.

5.22(1) Any party may, at least 20 days before the date fixed for any hearing, move with or without supporting affidavits for a summary decision in favor of the moving party on all or any part of the proceeding. Any other party may, within ten days after service of the motion, serve opposing affidavits or countermove for summary decision. The hearing examiner may discretionarily set the matter for argument and call for the submission of briefs.

5.22(2) The filing of any documents under subrule 5.22(1) shall be with the commissioner, and copies of any such documents shall be served in accordance with rule 875—5.15(88).

5.22(3) The hearing examiner may grant the motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The hearing examiner may deny such motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

5.22(4) Affidavits shall set forth such facts as would be admissible in evidence in the hearing and show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this rule, a party opposing the motion may not rest upon the mere allegations or denials of its own pleading. The response of the party opposing the motion must set forth specific facts showing that there is a genuine issue of fact for the hearing.

5.22(5) Should it appear from the affidavits of a party opposing the motion that the opposing party cannot for reasons stated present by affidavit facts essential to justify the opposition, the hearing examiner may deny the motion for summary decision or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.23(88) Summary decision.

5.23(1) *No genuine issue of material fact.*

a. Where no genuine issue of a material fact is found to have been raised, the hearing examiner may issue a decision to become final 20 days after service thereof.

b. A decision made under subrule 5.23(1) includes a statement of: (1) findings and conclusions, and the reasons or bases therefor, on all issues presented; and (2) the terms and conditions of the rule or order made.

5.23(2) *Hearings on issues of fact.* Where a genuine material question of fact is raised, the hearing examiner will, and in any other case may, set the case for an evidentiary hearing in accordance with rules 875—5.14(88) through 875—5.21(88).

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

875—5.24(88) Finality for purposes of judicial review. A preliminary, procedural or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code sections 17A.9A and 88.5.

[Filed 10/11/72]

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CHAPTER 6

Rescinded, effective 1/28/81

[Similar subject covered in Ch 8 published IAC 12/24/80]

CHAPTER 7

Reserved

CHAPTER 8
CONSULTATIVE SERVICES

[Similar subject covered in Ch 6 prior to 12/24/80]
[Ch 8 appearing prior to 12/24/80 renumbered as Ch 9]
[Prior to 9/24/86, Labor, Bureau of[530]]
[Prior to 10/7/98, see 347—Ch 8]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—8.1(88) Purpose and scope. This chapter contains procedures for the division of labor services, bureau of consultation and education, to provide consultative services to private and public employers.

8.1(1) Services are available at no cost to employers to assist employers in establishing an effective occupational safety and health management system in order to provide employment and a place of employment that are safe and healthful. The goal is to prevent injuries and illnesses that may result from exposure to hazardous work practices and conditions. The principal assistance will be provided at the employer's work site, but off-site assistance may also be provided. Within the scope of the employer's request, the consultant will evaluate the employer's program for providing employment and a place of employment that are safe and healthful; identify specific hazards in the workplace; and provide appropriate advice and assistance in establishing or improving the employer's safety and health management system and in correcting any hazardous conditions identified. Assistance may include education and training of the employer, the employer's supervisors, and the employer's other employees to make the employer self-sufficient in ensuring safe and healthful work and working conditions.

8.1(2) Consultation is independent of Iowa OSHA enforcement, and the discovery of hazards will not mandate citations or penalties. However, the employer has a statutory obligation to protect employees, and, in certain instances, the employer will be required to take necessary protective action. An employer that corrects the hazards identified by the consultant during a comprehensive workplace survey, implements certain core elements of an effective safety and health management system, and commits to complete other core elements of an effective safety and health program may qualify for exemption from certain enforcement activities.

[ARC 8448C, IAB 12/11/24, effective 1/15/25]

875—8.2(88) Definitions.

“Act” means the Iowa occupational safety and health Act, Iowa Code chapter 88.

“Compliance officer” means a compliance safety and health officer employed by Iowa OSHA enforcement.

“Consultant” means an employee of the bureau of consultation and education of the division of labor services.

“Consultation” means all activities related to the provision of consultative assistance under this chapter, including off-site consultation and on-site consultation.

“Division” means the division of labor services of the department of inspections, appeals, and licensing.

“Education” means planned and organized activity by a consultant to impart information to employers and employees to enable them to establish and maintain employment and a place of employment that are safe and healthful.

“Employee representative” means the authorized representative of employees at a site where there is a recognized labor organization representing employees.

“Hazard correction” means the elimination or control of a workplace hazard in accordance with the requirements of the Act and rules.

“Imminent danger” means a condition or practice in a place of employment that could reasonably be expected to cause death or serious physical harm immediately or before the danger can be eliminated.

“Iowa OSHA enforcement” means the unit of the division that enforces the occupational safety and health Act.

“List of hazards” means a list of all serious hazards that are identified by the consultant and the correction due dates agreed upon by the employer and the consultant.

“*Off-site consultation*” means consultation provided away from an employer’s work site by means such as training, education, telephone, and correspondence.

“*On-site consultation*” means consultation provided during a visit to an employer’s work site. “On-site consultation” includes a written report to the employer on the findings and recommendations resulting from the visit and may include training and education needed to address hazards or potential hazards at the work site.

“*Other-than-serious hazard*” means any condition or practice that would be classified as an other-than-serious violation of applicable standards based on criteria contained in the current Iowa Field Operations Manual.

“*Programmed inspection*” means an inspection scheduled based on objective or neutral criteria as set forth in the Iowa Field Operations Manual.

“*Recognition and exemption program*” means an achievement recognition program to recognize an employer that operates an exemplary program that results in the immediate and long-term prevention of job-related injuries and illnesses at a workplace.

“*Serious hazard*” means a condition or practice that would be classified as a serious violation of applicable standards, except that the element of employer knowledge will not be considered.

“*Training*” means the planned and organized activity of a consultant to impart skills, techniques and methodologies to employers and their employees to assist them in establishing and maintaining employment and a place of employment that are safe and healthful.

[ARC 8448C, IAB 12/11/24, effective 1/15/25]

875—8.3(88) Requesting and scheduling of on-site consultation visit.

8.3(1) *Employer requests.* On-site consultation will be provided only upon the request of the employer. Any employer may specify a more limited scope for the visit by indicating working conditions, hazards, or situations on which on-site consultation shall be focused. When limited requests are made, the consultant will limit review and provide assistance only with respect to the specified working conditions, hazards, or situations. However, if in the course of the on-site visit the consultant observes hazards that are outside the scope of the request, the consultant shall treat the hazards as though they were within the scope of the request.

8.3(2) *Relationship to enforcement.* An employer may request on-site consultation to assist in the abatement of hazards cited during an enforcement inspection. However, on-site consultation may not take place after an enforcement inspection until the conditions set forth in paragraph 8.5(2) “c” have been met.

8.3(3) *Scheduling priority.* Scheduling priorities will be in accordance with the federal Consultation Policy and Procedures Manual.

[ARC 8448C, IAB 12/11/24, effective 1/15/25]

875—8.4(88) Conducting a visit.

8.4(1) *Preparation.*

- a. The consultant will conduct an on-site consultation visit only after appropriate preparation.
- b. If a request is made during a promotional visit, a consultant may perform on-site consultation activities immediately.

8.4(2) *Structured format.*

a. An initial on-site consultation visit will consist of an opening conference where the employer will be advised of the responsibilities under state law, an examination of those aspects of the employer’s safety and health program that relate to the scope of the visit, a walk-through of the workplace, and a closing conference. An initial visit may include training and education for employers and employees, if the employer requests the assistance and if the need for the training and education is revealed by the walk-through of the workplace and the examination of the employer’s safety and health program. The consultant will provide a written report to the employer after the consultation.

b. Additional visits may be conducted as the employer requests to provide needed education and training, assistance with the employer’s safety and health program, or technical assistance in the correction of hazards. Additional visits may also be conducted if necessary to verify the correction of serious hazards identified during previous visits.

8.4(3) Employee participation.

a. The consultant retains the right to confer with individual employees privately during the course of the visit in order to identify and judge the nature and extent of particular hazards within the scope of the employer's request and to evaluate the employer's safety and health program. The consultant will explain the necessity for this contact to the employer during the opening conference, and the employer must agree to this contact before a visit can proceed.

b. Employees, their representatives, and members of a workplace joint safety and health committee may participate in the on-site consultation to the extent desired by the employer. In the opening conference, the consultant shall encourage the employer to allow employee participation to the fullest extent practicable.

c. An employee representative of affected employees must be afforded an opportunity to accompany the consultant and the employer's representative during the physical inspection of the workplace.

d. If there is no employee representative, if the consultant is unable with reasonable certainty to identify an employee representative, or if the employee representative declines the offer to participate, the consultant must confer with a reasonable number of employees concerning matters of occupational safety and health.

e. The consultant is authorized to deny the right to participate to any person whose conduct interferes with the orderly conduct of the visit.

8.4(4) Opening and closing conferences.

a. In the opening conference, the consultant will explain the relationship between on-site consultation and OSHA enforcement activity, will explain the obligation to protect employees in the event that certain hazardous conditions are identified, and will emphasize the employer's obligation to post the list of hazards.

b. The consultant will encourage a joint opening conference with the employer and employee representatives. If there is an objection to a joint conference, the consultant will conduct separate conferences with the employer and employee representatives. The consultant must inform employees at the opening conference of the purpose of the consultation visit.

c. At the conclusion of the consultation visit, the consultant will conduct a closing conference with the employer and employee representatives, jointly or separately. The consultant will describe hazards identified during the visit and other pertinent issues related to employee safety and health.

8.4(5) On-site activity.

a. During the on-site consultation, the consultant will focus primarily on conditions, hazards, or situations for which the employer requested assistance. An employer may expand or reduce the scope of the request at any time during the on-site consultation. If the employer requests an expansion of the scope, the consultant will expand the scope immediately if scheduling priorities permit and the consultant is prepared. If the employer's request for expansion necessitates further preparation by the consultant or the expertise of another consultant, or if other employer requests may merit higher priority, the consultant will refer the request to the consultation manager for scheduling. If the scope of the visit is reduced, the employer shall correct serious hazards that were already identified and provide appropriate proof of correction.

b. The consultant will advise the employer of the employer's obligations and responsibilities under applicable law.

c. Within the scope of the employer's request, the consultant will review the employer's safety and health management system and provide advice on modifications or additions to make the program more effective.

d. The consultant will identify and provide advice on the correction of hazards included in the employer's request and any other safety or health hazards observed in the workplace. The consultant will conduct necessary sampling, testing, and analysis to confirm the existence of a safety or health hazard.

e. Advice and technical assistance on the correction of identified safety and health hazards may be provided to employers during and after the on-site consultation. The consultant may provide materials on approaches, means, techniques, and items commonly utilized for the elimination or control of hazards. The consultant will advise the employer of additional sources of assistance, if known.

f. When a hazard is identified in the workplace, the consultant will indicate to the employer the consultant's best judgment as to whether the hazard would be classified as serious hazard or other-than-serious hazard.

g. If the consultant determines that an identified serious hazard exists, the consultant will assist the employer to develop a specific plan to correct the hazard. The chief of the bureau of consultation and education will provide an expeditious informal discussion regarding the period of time established for the correction of a hazard or any other substantive findings of the consultant if the employer requests the informal discussion within 15 working days from receipt of the consultant's report.

h. As a condition for receiving the consultation service, the employer must agree to post the list of hazards accompanying the consultant's written report and to notify affected employees when hazards are corrected. The employer must, upon receipt, post the unedited list of hazards in a prominent place where it is readily observable by all affected employees for three working days or until the hazards are corrected, whichever is later. A copy of the list of hazards shall be made available to the employee representative who participated in the visit.

8.4(6) *Employer's obligations.*

a. An employer must take immediate action to eliminate employee exposure to a hazard that presents an imminent danger to employees. If the employer fails to take the necessary action, the chief of the bureau of consultation and education shall immediately notify the affected employees and the labor commissioner or the labor commissioner's designee.

b. An employer must also take the necessary action to eliminate or control employee exposure to any identified serious hazard and meet the employee notice requirements of paragraph 8.4(5) "h." In order to demonstrate that the necessary action is being taken, an employer may be required to submit periodic reports, permit a follow-up visit, or take similar action.

c. The chief of the bureau of consultation and education may grant an extension of time for the correction of a serious hazard when:

- (1) The employer files a request for extension;
- (2) The employer demonstrates it made a good-faith effort to correct the hazard within the established time frame;
- (3) The employer provides evidence that correction is not complete because of factors beyond the employer's reasonable control; and
- (4) The employer provides evidence that the employer is taking all available interim steps to safeguard the employees against the hazard during the correction period.

d. If the employer fails to take the action necessary to correct a serious hazard within the established time frame or any extensions thereof, the chief of the bureau of consultation and education will immediately notify the labor commissioner or the labor commissioner's designee.

e. The employer will confirm in writing to the chief of the bureau of consultation and education that the hazards have been corrected unless the consultant otherwise confirms correction of the hazards.

8.4(7) *Written report.* For each visit that results in substantive findings or recommendations, a written report will be prepared and sent to the employer. The report will include the following elements as applicable:

- a.* A restatement of the employer's request;
- b.* A description of the working conditions examined by the consultant;
- c.* An evaluation of the employer's safety and health management system;
- d.* Recommendations for making the safety and health program more effective;
- e.* Identification, description, and classification of each hazard;
- f.* Reference to applicable standards and regulations;
- g.* Correction date for each serious hazard;
- h.* Suggested means or approaches to correct hazards; and
- i.* Recommendations for additional assistance, such as medical or engineering advice.

8.4(8) *Confidentiality.* The bureau of consultation and education will provide, when requested, program information to the U.S. Occupational Safety and Health Administration, including information that identifies employers that have requested consultation services.

875—8.5(88) Relationship to enforcement.

8.5(1) Separation of functions. Consultation shall be conducted independently of Iowa OSHA enforcement. Except as noted in subrule 8.5(3), neither the identity of an employer requesting on-site consultation nor the file or report from the consultation activity will be provided to Iowa OSHA enforcement unless the employer fails to take the necessary action to protect employees from a serious hazard or imminent danger.

8.5(2) Effect upon scheduling.

a. An on-site consultation already in progress will have priority over compliance inspections by Iowa OSHA enforcement except as provided in paragraph 8.5(2) “*b.*” The consultant and the employer will notify the compliance officer that an on-site consultation is in progress and will request delay of the inspection until after the on-site consultation is completed.

b. The consultant will terminate an on-site consultation if one of the following compliance inspections by Iowa OSHA enforcement is about to take place:

- (1) Imminent danger investigation.
- (2) Fatality/catastrophe investigation.
- (3) Complaint or referral investigation.
- (4) Other critical inspection as determined by the labor commissioner.

c. An on-site consultation shall not take place while an enforcement inspection is in progress at the establishment. An enforcement inspection will be deemed “in progress” from the time a compliance officer initially seeks entry to the workplace to the end of the closing conference. If the employer denied the compliance officer entry to the work site, an enforcement inspection is “in progress” until the inspection is concluded, the commissioner determines that a warrant to enter will not be sought, or the commissioner determines that allowing a consultative visit to proceed is in the best interest of employee safety and health. An on-site consultation shall not take place subsequent to an enforcement inspection until the employer has been notified that no citations will be issued, or if a citation is issued, on-site consultation will take place only with regard to those citation items that have become final orders.

d. The recognition and exemption program operated by the bureau of consultation and education provides incentives and support to high-hazard employers to work with employees to develop, implement, and continuously improve the effectiveness of a safety and health management system.

(1) Programmed enforcement inspections at a work site may be deferred while the employer is working to achieve recognition status if the following conditions are met:

1. An employer requested participation in a recognition and exemption program;
2. A consultant has conducted an on-site consultation covering all conditions and operations related to occupational safety and health;
3. An employer corrected all hazards identified during the consultation visit within established time frames;
4. An employer has begun to implement all of the elements of an effective safety and health management system; and
5. An employer agrees to request an on-site consultation if major changes in working conditions or work processes occur that may introduce new hazards.

(2) Employers that meet all the requirements for recognition and exemption will be removed from the Iowa OSHA enforcement programmed inspection schedules for at least one year from the date of the certificate of recognition.

(3) Iowa OSHA enforcement shall continue to make the inspections listed below at sites that achieved recognition and exemption status and at sites that have received deferrals:

1. Imminent danger;
2. Fatality/catastrophe; and
3. Formal complaint.

8.5(3) Effect upon enforcement.

a. The advice of the consultant and the consultant’s written report will not be binding upon a compliance officer in a subsequent enforcement inspection. In a subsequent enforcement inspection, a

compliance officer is not precluded from issuing citations and proposing penalties for hazardous conditions or violations.

b. The hazard identification and correction assistance given by the consultant, the failure of the consultant to point out a specific hazard, and errors or omissions by the consultant shall not:

- (1) Be binding upon a compliance officer;
- (2) Affect the regular conduct of a compliance inspection;
- (3) Preclude the finding of alleged violations and the issuance of citations; or
- (4) Act as a defense to any enforcement action.

c. In the event of a subsequent enforcement inspection, the employer is not required to inform the compliance officer of the prior consultation visit. The employer is not required to provide a copy of the consultant's written report to the compliance officer, except to the extent that disclosure of information contained in the report is required by 29 CFR 1910.1020. During a subsequent enforcement action, if Iowa OSHA enforcement independently determines there is reason to believe that the employer failed to correct serious hazards identified during the consultation visit, created the same hazards again, or made false statements to the bureau of consultation and education in connection with the consultation program, Iowa OSHA enforcement may exercise its authority to obtain the consultation report.

d. If the employer chooses to provide a copy of the consultant's report to the compliance officer, the report may be used to determine the extent to which an inspection is required and as a factor in determining proposed penalties. Iowa OSHA enforcement may impose minimal penalties if a consultant previously identified a hazard and the employer is complying with the consultant's recommendations in good faith.

[ARC 8448C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code chapter 88.

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¹ Rules renumbered and rescinded, see IAB 5/6/87.

CHAPTER 9
OSHA DISCRIMINATION AGAINST EMPLOYEES

[Previously Ch 8 IAC renumbered 12/24/80]
[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 9]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—9.1(88) Complaints and proceedings under or related to the Iowa occupational safety and health Act.

9.1(1) Complaints about occupational safety and health, if made in good faith, are related to the Iowa occupational safety and health Act, Iowa Code chapter 88, hereinafter referred to as the Act, and an employee is protected against discharge or discrimination caused by a complaint to the employer.

9.1(2) If an employee, with no reasonable alternative, refuses in good faith to be exposed to a dangerous condition, the employee is protected against subsequent discrimination if the following conditions are met:

a. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury.

b. The employee, where possible, first sought to:

(1) Eliminate the danger through resorting to regular statutory enforcement channels unless there has been insufficient time due to the urgency of the situation, or

(2) Obtain from the employer a correction of the dangerous condition but was unable to do so.

9.1(3) Discharge of, or discrimination against, any employee because the employee "has testified or is about to testify" in proceedings under or related to the Act extends to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rulemaking or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or related to the Act, the employee would be protected against discrimination resulting from such testimony.

9.1(4) An employee need not directly institute the proceedings. It is sufficient if the employee sets into motion activities of others that result in proceedings under or related to the Act.

9.1(5) An employer's failure to pay employees for time during which the employees are engaged in walkaround inspections or in other inspection-related activities, such as responding to questions of compliance officers or participating in the opening and closing conferences, is discriminatory under Iowa Code section 88.9(3) so long as neither the number of employees participating nor the time required to express employee concerns is excessive.

9.1(6) The employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, Iowa Code section 88.9(3) has been violated.

9.1(7) The prohibitions of Iowa Code section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Iowa Code section 88.9(3) extends to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

[ARC 8449C, IAB 12/11/24, effective 1/15/25]

875—9.2(88) Unprotected activities distinguished.

9.2(1) Actions taken by an employer or others that adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Iowa Code section 88.9(3) apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render the employee immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

9.2(2) An employer would not ordinarily be in violation of Iowa Code section 88.9(3) by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

9.2(3) Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Iowa Code section 88.9(3).

[ARC 8449C, IAB 12/11/24, effective 1/15/25]

875—9.3(88) Filing of complaint for discrimination.

9.3(1) A complaint of Iowa Code section 88.9(3) discrimination may be filed by the employee or by a representative authorized to do so on the employee's behalf. No particular form of complaint is required. A complaint should be filed with the labor commissioner.

9.3(2) Complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances that would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances (e.g., where the employer has concealed or misled the employee regarding the grounds for discharge or other adverse action or where the discrimination is in the nature of a continuing violation). The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances that do not justify tolling of the 30-day period.

9.3(3) Withdrawal of complaint. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the labor commissioner's investigation. However, a voluntary and uncoerced request from a complainant to withdraw the complaint will be given careful consideration and substantial weight.

[ARC 8449C, IAB 12/11/24, effective 1/15/25]

875—9.4(88) Notice of determination. Iowa Code section 88.9(3) provides that within 90 days of the filing of a complaint, the labor commissioner is to notify a complainant whether prohibited discrimination occurred. This 90-day provision is considered to be directory in nature.

[ARC 8449C, IAB 12/11/24, effective 1/15/25]

875—9.5(88) Arbitration or other agency proceedings.

9.5(1) The labor commissioner's jurisdiction to entertain complaints related to Iowa Code section 88.9(3) complaints is independent of the jurisdiction of the other agencies or bodies. The labor commissioner may file action in district court regardless of the pendency of other proceedings. However, due deference should be paid to the jurisdiction of other forums established to resolve disputes that may also be related to complaints under Iowa Code section 88.9(3).

9.5(2) Postponement of determination is justified where the rights asserted in other proceedings are substantially the same as rights under Iowa Code section 88.9(3).

9.5(3) A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information.

[ARC 8449C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code sections 84A.1, 84A.2, 88.2, and 88.9(3).

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CHAPTER 10
GENERAL INDUSTRY SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 10]

Chapter rescission date pursuant to Iowa Code section 17A.7: 11/6/29

875—10.1(88) Applicability of standards. None of the standards in this chapter shall apply to working conditions of employees with respect to which federal agencies other than the United States Department of Labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

[ARC 8411C, IAB 11/27/24, effective 11/6/24]

875—10.2(88) Incorporation by reference. The standards of agencies of the U.S. Government, and organizations that are not agencies of the U.S. Government that are incorporated by reference in this chapter, have the same force and effect as other standards in this chapter. Only mandatory provisions (i.e., provisions containing the word “shall” or other mandatory language) of standards incorporated by reference are adopted under the Act.

[ARC 8411C, IAB 11/27/24, effective 11/6/24]

875—10.3(88) Definitions and requirements for a nationally recognized testing laboratory. The federal regulations adopted at 29 CFR, Chapter XVII, Part 1910, regulation 1910.7 and Appendix A, as published at 53 Fed. Reg. 12120 (April 12, 1988) and amended at 53 Fed. Reg. 16838 (May 11, 1988), 54 Fed. Reg. 24333 (June 7, 1989) and 65 Fed. Reg. 46818 (July 31, 2000) are adopted by reference.

[ARC 8411C, IAB 11/27/24, effective 11/6/24]

875—10.4(88) Adoption by reference. The rules beginning at 1910.20 and continuing through 1910, as adopted by the United States Secretary of Labor, shall be the rules for implementing Iowa Code chapter 88. This rule adopts the Federal Occupational Safety and Health Standards of 29 CFR, Chapter XVII, Part 1910, as published at 37 Fed. Reg. 22102 to 22324 (October 18, 1972) and as amended at:

37 Fed. Reg. 23719 (November 8, 1972)
37 Fed. Reg. 24749 (November 21, 1972)
38 Fed. Reg. 3599 (February 8, 1973)
38 Fed. Reg. 9079 (April 10, 1973)
38 Fed. Reg. 10932 (May 3, 1973)
38 Fed. Reg. 14373 (June 1, 1973)
38 Fed. Reg. 16223 (June 21, 1973)
38 Fed. Reg. 19030 (July 17, 1973)
38 Fed. Reg. 27048 (September 28, 1973)
38 Fed. Reg. 28035 (October 11, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 1437 (January 9, 1974)
39 Fed. Reg. 3760 (January 29, 1974)
39 Fed. Reg. 6110 (February 19, 1974)
39 Fed. Reg. 9958 (March 15, 1974)
39 Fed. Reg. 19468 (June 3, 1974)
39 Fed. Reg. 35896 (October 4, 1974)
39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 3982 (January 27, 1975)
40 Fed. Reg. 13439 (March 26, 1975)
40 Fed. Reg. 18446 (April 28, 1975)
40 Fed. Reg. 23072 (May 28, 1975)
40 Fed. Reg. 23743 (June 2, 1975)

40 Fed. Reg. 24522 (June 9, 1975)
40 Fed. Reg. 27369 (June 27, 1975)
40 Fed. Reg. 31598 (July 28, 1975)
41 Fed. Reg. 11504 (March 19, 1976)
41 Fed. Reg. 13352 (March 30, 1976)
41 Fed. Reg. 35184 (August 20, 1976)
41 Fed. Reg. 46784 (October 22, 1976)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 3304 (January 18, 1977)
42 Fed. Reg. 45544 (September 9, 1977)
42 Fed. Reg. 46540 (September 16, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 11527 (March 17, 1978)
43 Fed. Reg. 19624 (May 5, 1978)
43 Fed. Reg. 27394 (June 23, 1978)
43 Fed. Reg. 27434 (June 23, 1978)
43 Fed. Reg. 28472 (June 30, 1978)
43 Fed. Reg. 28473 (June 30, 1978)
43 Fed. Reg. 31330 (July 21, 1978)
43 Fed. Reg. 35032 (August 8, 1978)
43 Fed. Reg. 45809 (October 3, 1978)
43 Fed. Reg. 49744 (October 24, 1978)
43 Fed. Reg. 51759 (November 7, 1978)
43 Fed. Reg. 53007 (November 14, 1978)
43 Fed. Reg. 56893 (December 5, 1978)
43 Fed. Reg. 57602 (December 8, 1978)
44 Fed. Reg. 5447 (January 26, 1979)
44 Fed. Reg. 50338 (August 28, 1979)
44 Fed. Reg. 60981 (October 23, 1979)
44 Fed. Reg. 68827 (November 30, 1979)
45 Fed. Reg. 6713 (January 29, 1980)
45 Fed. Reg. 8594 (February 8, 1980)
45 Fed. Reg. 12417 (February 26, 1980)
45 Fed. Reg. 35277 (May 23, 1980)
45 Fed. Reg. 41634 (June 20, 1980)
45 Fed. Reg. 54333 (August 15, 1980)
45 Fed. Reg. 60703 (September 12, 1980)
46 Fed. Reg. 4056 (January 16, 1981)
46 Fed. Reg. 6288 (January 21, 1981)
46 Fed. Reg. 24557 (May 1, 1981)
46 Fed. Reg. 32022 (June 19, 1981)
46 Fed. Reg. 40185 (August 7, 1981)
46 Fed. Reg. 2632 (August 21, 1981)
46 Fed. Reg. 42632 (August 21, 1981)
46 Fed. Reg. 45333 (September 11, 1981)
46 Fed. Reg. 60775 (December 11, 1981)
47 Fed. Reg. 39161 (September 7, 1982)
47 Fed. Reg. 51117 (November 12, 1982)
47 Fed. Reg. 53365 (November 26, 1982)
48 Fed. Reg. 2768 (January 21, 1983)
48 Fed. Reg. 9641 (March 8, 1983)

48 Fed. Reg. 9776 (March 8, 1983)
48 Fed. Reg. 29687 (June 28, 1983)
49 Fed. Reg. 881 (January 6, 1984)
49 Fed. Reg. 4350 (February 3, 1984)
49 Fed. Reg. 5321 (February 10, 1984)
49 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 36992 (September 11, 1985)
50 Fed. Reg. 37353 (September 13, 1985)
50 Fed. Reg. 41494 (October 11, 1985)
50 Fed. Reg. 51173 (December 13, 1985)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 24325 (July 3, 1986)
51 Fed. Reg. 25053 (July 10, 1986)
51 Fed. Reg. 33033 (September 18, 1986)
51 Fed. Reg. 33260 (September 19, 1986)
51 Fed. Reg. 34560 (September 29, 1986)
51 Fed. Reg. 45663 (December 19, 1986)
52 Fed. Reg. 16241 (May 4, 1987)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 34562 (September 11, 1987)
52 Fed. Reg. 36026 (September 25, 1987)
52 Fed. Reg. 36387 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
52 Fed. Reg. 49624 (December 31, 1987)
53 Fed. Reg. 6629 (March 2, 1988)
53 Fed. Reg. 8352 (March 14, 1988)
53 Fed. Reg. 11436 (April 6, 1988)
53 Fed. Reg. 12120 (April 12, 1988)
53 Fed. Reg. 16838 (May 11, 1988)
53 Fed. Reg. 17695 (May 18, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 27960 (July 26, 1988)
53 Fed. Reg. 34736 (September 8, 1988)
53 Fed. Reg. 35625 (September 14, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
53 Fed. Reg. 38162 (September 29, 1988)
53 Fed. Reg. 39581 (October 7, 1988)
53 Fed. Reg. 45080 (November 8, 1988)
53 Fed. Reg. 47188 (November 22, 1988)
53 Fed. Reg. 49981 (December 13, 1988)
54 Fed. Reg. 2920 (January 19, 1989)
54 Fed. Reg. 6888 (February 15, 1989)
54 Fed. Reg. 9317 (March 6, 1989)
54 Fed. Reg. 12792 (March 28, 1989)
54 Fed. Reg. 28054 (July 5, 1989)
54 Fed. Reg. 29274 (July 11, 1989)
54 Fed. Reg. 29545 (July 13, 1989)
54 Fed. Reg. 30704 (July 21, 1989)
54 Fed. Reg. 31456 (July 28, 1989)

54 Fed. Reg. 36687 (September 1, 1989)
54 Fed. Reg. 36767 (September 5, 1989)
54 Fed. Reg. 37531 (September 11, 1989)
54 Fed. Reg. 41364 (October 6, 1989)
54 Fed. Reg. 46610 (November 6, 1989)
54 Fed. Reg. 47513 (November 15, 1989)
54 Fed. Reg. 49971 (December 4, 1989)
54 Fed. Reg. 50372 (December 6, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
55 Fed. Reg. 3146 (January 30, 1990)
55 Fed. Reg. 3300 (January 31, 1990)
55 Fed. Reg. 3723 (February 5, 1990)
55 Fed. Reg. 4998 (February 13, 1990)
55 Fed. Reg. 7967 (March 6, 1990)
55 Fed. Reg. 12110 (March 30, 1990)
55 Fed. Reg. 12819 (April 6, 1990)
55 Fed. Reg. 13696 (April 11, 1990)
55 Fed. Reg. 14073 (April 13, 1990)
55 Fed. Reg. 19259 (May 9, 1990)
55 Fed. Reg. 25094 (June 10, 1990)
55 Fed. Reg. 26431 (June 28, 1990)
55 Fed. Reg. 32014 (August 6, 1990)
55 Fed. Reg. 38677 (September 20, 1990)
55 Fed. Reg. 46053 (November 1, 1990)
55 Fed. Reg. 46949 (November 8, 1990)
55 Fed. Reg. 50686 (December 10, 1990)
56 Fed. Reg. 15832 (April 18, 1991)
56 Fed. Reg. 24686 (May 31, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
56 Fed. Reg. 64175 (December 6, 1991)
57 Fed. Reg. 6403 (February 24, 1992)
57 Fed. Reg. 7847 (March 4, 1992)
57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 22307 (May 27, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 24701 (June 10, 1992)
57 Fed. Reg. 27160 (June 18, 1992)
57 Fed. Reg. 29204 (July 1, 1992)
57 Fed. Reg. 29206 (July 1, 1992)
57 Fed. Reg. 35666 (August 10, 1992)
57 Fed. Reg. 42388 (September 14, 1992)
58 Fed. Reg. 4549 (January 14, 1993)
58 Fed. Reg. 15089 (March 19, 1993)
58 Fed. Reg. 16496 (March 29, 1993)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 34845 (June 29, 1993)
58 Fed. Reg. 35308 (June 30, 1993)
58 Fed. Reg. 35340 (June 30, 1993)
58 Fed. Reg. 40191 (July 27, 1993)
59 Fed. Reg. 4435 (January 31, 1994)
59 Fed. Reg. 6169 (February 9, 1994)
59 Fed. Reg. 16360 (April 6, 1994)

59 Fed. Reg. 26115 (May 19, 1994)
59 Fed. Reg. 33661 (June 30, 1994)
59 Fed. Reg. 33910 (July 1, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41057 (August 10, 1994)
59 Fed. Reg. 43270 (August 22, 1994)
59 Fed. Reg. 51741 (October 12, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9624 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33344 (June 28, 1995)
60 Fed. Reg. 33984 (June 29, 1995)
60 Fed. Reg. 47035 (September 8, 1995)
60 Fed. Reg. 52859 (October 11, 1995)
61 Fed. Reg. 5508 (February 13, 1996)
61 Fed. Reg. 9230 (March 7, 1996)
61 Fed. Reg. 9583 (March 8, 1996)
61 Fed. Reg. 19548 (May 2, 1996)
61 Fed. Reg. 21228 (May 9, 1996)
61 Fed. Reg. 31430 (June 20, 1996)
61 Fed. Reg. 43456 (August 23, 1996)
61 Fed. Reg. 56831 (November 4, 1996)
62 Fed. Reg. 1600 (January 10, 1997)
62 Fed. Reg. 29668 (June 2, 1997)
62 Fed. Reg. 40195 (July 25, 1997)
62 Fed. Reg. 42018 (August 4, 1997)
62 Fed. Reg. 42666 (August 8, 1997)
62 Fed. Reg. 43581 (August 14, 1997)
62 Fed. Reg. 48175 (September 15, 1997)
62 Fed. Reg. 54383 (October 20, 1997)
62 Fed. Reg. 65203 (December 11, 1997)
62 Fed. Reg. 66276 (December 18, 1997)
63 Fed. Reg. 1269 (January 8, 1998)
63 Fed. Reg. 13339 (March 19, 1998)
63 Fed. Reg. 17093 (April 8, 1998)
63 Fed. Reg. 20098 (April 23, 1998)
63 Fed. Reg. 33467 (June 18, 1998)
63 Fed. Reg. 50729 (September 22, 1998)
63 Fed. Reg. 66038 (December 1, 1998)
63 Fed. Reg. 66270 (December 1, 1998)
64 Fed. Reg. 13700 (March 22, 1999)
64 Fed. Reg. 13908 (March 23, 1999)
64 Fed. Reg. 22552 (April 27, 1999)
65 Fed. Reg. 76567 (December 7, 2000)
66 Fed. Reg. 5324 (January 18, 2001)
66 Fed. Reg. 18191 (April 6, 2001)
67 Fed. Reg. 67961 (November 7, 2002)
68 Fed. Reg. 75780 (December 31, 2003)
69 Fed. Reg. 7363 (February 17, 2004)
69 Fed. Reg. 31881 (June 8, 2004)
69 Fed. Reg. 46993 (August 4, 2004)

70 Fed. Reg. 53929 (September 13, 2005)
 70 Fed. Reg. 1140 (January 5, 2005)
 71 Fed. Reg. 10373 (February 28, 2006)
 71 Fed. Reg. 36008 (June 23, 2006)
 71 Fed. Reg. 63242 (October 30, 2006)
 72 Fed. Reg. 7190 (February 14, 2007)
 72 Fed. Reg. 64428 (November 15, 2007)
 72 Fed. Reg. 71068 (December 14, 2007)
 73 Fed. Reg. 75583 (December 12, 2008)
 68 Fed. Reg. 32638 (June 2, 2003)
 74 Fed. Reg. 46355 (September 9, 2009)
 74 Fed. Reg. 40447 (August 11, 2009)
 75 Fed. Reg. 12685 (March 17, 2010)
 76 Fed. Reg. 33606 (June 8, 2011)
 76 Fed. Reg. 75786 (December 5, 2011)
 77 Fed. Reg. 17764 (March 26, 2012)
 76 Fed. Reg. 80738 (December 27, 2011)
 77 Fed. Reg. 37598 (June 22, 2012)
 77 Fed. Reg. 46949 (August 7, 2012)
 78 Fed. Reg. 9313 (February 8, 2013)
 78 Fed. Reg. 69549 (November 20, 2013)
 79 Fed. Reg. 20629 (April 11, 2014)
 79 Fed. Reg. 56960 (September 24, 2014)
 80 Fed. Reg. 60036 (October 5, 2015)
 81 Fed. Reg. 16090 (March 25, 2016)
 81 Fed. Reg. 16861 (March 25, 2016)
 81 Fed. Reg. 82981 (November 18, 2016)
 82 Fed. Reg. 2735 (January 9, 2017)
 83 Fed. Reg. 19948 (May 7, 2018)
 84 Fed. Reg. 21457 (May 14, 2019)
 84 Fed. Reg. 50755 (September 26, 2019)
 84 Fed. Reg. 68795 (December 17, 2019)
 85 Fed. Reg. 8731 (February 18, 2020)
 86 Fed. Reg. 32620 (June 21, 2021)
 86 Fed. Reg. 32620 (June 22, 2021)
 83 Fed. Reg. 31045 (July 3, 2018)
 85 Fed. Reg. 42625 (July 14, 2020)
 89 Fed. Reg. 44144 (May 20, 2024)

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These rules are intended to implement Iowa Code section 88.5.

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effective 11/6/24]

CHAPTERS 11 to 25
Reserved

CHAPTER 26
CONSTRUCTION SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/7/98, see 347—Ch 26]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—26.1(88) Adoption by reference. Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa labor commissioner, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)
38 Fed. Reg. 27594 (October 5, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 19470 (June 3, 1974)
39 Fed. Reg. 24361 (July 2, 1974)
40 Fed. Reg. 23072 (May 28, 1975)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 56894 (December 5, 1978)
45 Fed. Reg. 75626 (November 14, 1980)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 25318 (July 11, 1986)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 36381 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
53 Fed. Reg. 22643 (June 16, 1988)
53 Fed. Reg. 27346 (July 20, 1988)
53 Fed. Reg. 29139 (August 2, 1988)
53 Fed. Reg. 35627 (September 14, 1988)
53 Fed. Reg. 35953 (September 15, 1988)
53 Fed. Reg. 36009 (September 16, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
54 Fed. Reg. 15405 (April 18, 1989)
54 Fed. Reg. 23850 (June 2, 1989)
54 Fed. Reg. 30705 (July 21, 1989)
54 Fed. Reg. 41088 (October 5, 1989)
54 Fed. Reg. 45894 (October 31, 1989)
54 Fed. Reg. 49279 (November 30, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
54 Fed. Reg. 53055 (December 27, 1989)
55 Fed. Reg. 3732 (February 5, 1990)
55 Fed. Reg. 42328 (October 18, 1990)
55 Fed. Reg. 47687 (November 14, 1990)
55 Fed. Reg. 50687 (December 10, 1990)
56 Fed. Reg. 2585 (January 23, 1991)
56 Fed. Reg. 5061 (February 7, 1991)
56 Fed. Reg. 41794 (August 23, 1991)
56 Fed. Reg. 43700 (September 4, 1991)

57 Fed. Reg. 7878 (March 5, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 29119 (June 30, 1992)
57 Fed. Reg. 35681 (August 10, 1992)
57 Fed. Reg. 42452 (September 14, 1992)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 26627 (May 4, 1993)
58 Fed. Reg. 35077 (June 30, 1993)
58 Fed. Reg. 35310 (June 30, 1993)
58 Fed. Reg. 40468 (July 28, 1993)
59 Fed. Reg. 215 (January 3, 1994)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41131 (August 10, 1994)
59 Fed. Reg. 43275 (August 22, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9625 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33345 (June 28, 1995)
60 Fed. Reg. 34001 (June 29, 1995)
60 Fed. Reg. 36044 (July 13, 1995)
60 Fed. Reg. 39255 (August 2, 1995)
60 Fed. Reg. 50412 (September 29, 1995)
61 Fed. Reg. 5509 (February 13, 1996)
61 Fed. Reg. 9248 (March 7, 1996)
61 Fed. Reg. 31431 (June 20, 1996)
61 Fed. Reg. 41738 (August 12, 1996)
61 Fed. Reg. 43458 (August 23, 1996)
61 Fed. Reg. 46104 (August 30, 1996)
61 Fed. Reg. 56856 (November 4, 1996)
61 Fed. Reg. 59831 (November 25, 1996)
62 Fed. Reg. 1619 (January 10, 1997)
63 Fed. Reg. 1295 (January 8, 1998)
63 Fed. Reg. 1919 (January 13, 1998)
63 Fed. Reg. 3814 (January 27, 1998)
63 Fed. Reg. 13340 (March 19, 1998)
63 Fed. Reg. 17094 (April 8, 1998)
63 Fed. Reg. 20099 (April 23, 1998)
63 Fed. Reg. 33468 (June 18, 1998)
63 Fed. Reg. 35138 (June 29, 1998)
63 Fed. Reg. 66274 (December 1, 1998)
64 Fed. Reg. 22552 (April 27, 1999)
66 Fed. Reg. 5265 (January 18, 2001)
66 Fed. Reg. 37137 (July 17, 2001)
67 Fed. Reg. 57736 (September 12, 2002)
69 Fed. Reg. 31881 (June 8, 2004)
70 Fed. Reg. 1143 (January 5, 2005)
71 Fed. Reg. 2885 (January 18, 2006)
70 Fed. Reg. 76985 (December 29, 2005)
71 Fed. Reg. 10381 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)

71 Fed. Reg. 76985 (August 24, 2006)
 72 Fed. Reg. 64428 (November 15, 2007)
 73 Fed. Reg. 75583 (December 12, 2008)
 75 Fed. Reg. 12685 (March 17, 2010)
 75 Fed. Reg. 27429 (May 17, 2010)
 75 Fed. Reg. 48130 (August 9, 2010)
 76 Fed. Reg. 33606 (June 8, 2011)
 77 Fed. Reg. 17764 (March 26, 2012)
 76 Fed. Reg. 80738 (December 27, 2011)
 77 Fed. Reg. 23118 (April 18, 2012)
 77 Fed. Reg. 37598 (June 22, 2012)
 77 Fed. Reg. 42988 (July 23, 2012)
 77 Fed. Reg. 46949 (August 7, 2012)
 78 Fed. Reg. 23841 (April 23, 2013)
 78 Fed. Reg. 32116 (May 29, 2013)
 79 Fed. Reg. 20629 (April 11, 2014)
 79 Fed. Reg. 56960 (September 24, 2014)
 79 Fed. Reg. 57798 (September 26, 2014)
 80 Fed. Reg. 25518 (May 4, 2015)
 80 Fed. Reg. 60039 (October 5, 2015)
 81 Fed. Reg. 16092 (March 25, 2016)
 81 Fed. Reg. 16875 (March 25, 2016)
 83 Fed. Reg. 56244 (November 9, 2018)
 84 Fed. Reg. 21574 (May 14, 2019)
 85 Fed. Reg. 8735 (February 18, 2020)
 85 Fed. Reg. 53997 (August 31, 2020)
 85 Fed. Reg. 57122 (September 15, 2020)

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

[ARC 8433C, IAB 12/11/24, effective 1/15/25]

875—26.2(88) Beryllium exposure limits. The eight-hour time-weighted average permissible exposure limit for beryllium is 0.2 micrograms per cubic liter, and the short-term exposure limit for beryllium is 2.0 micrograms per cubic meter over a 15-minute sampling period.

This rule is intended to implement Iowa Code section 88.5.

[ARC 8433C, IAB 12/11/24, effective 1/15/25]

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CHAPTER 27
PROTECTIVE CLOTHING AND EQUIPMENT STANDARDS FOR FIREFIGHTERS

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/7/98, see 347—Ch 27]

Rescinded IAB 7/4/07, effective 8/8/07

CHAPTER 28
OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

[Prior to 9/24/86, Labor, Bureau of[530]]
[Prior to 10/7/98, see 347—Ch 28]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—28.1(88) Adoption by reference. Rules 1928.1, 1928.21, 1928.51 through 1928.53 and 1928.57, as adopted by the United States Secretary of Labor, shall be rules for implementing Iowa Code chapter 88. This rule adopts the federal Occupational Safety and Health Standards for Agriculture, 29 CFR 1928 as published at 40 Fed. Reg. 18253-18268 (April 25, 1975) and as amended at:

41 Fed. Reg. 10190 (March 9, 1976)
41 Fed. Reg. 11022 (March 16, 1976)
41 Fed. Reg. 22268 (June 2, 1976)
41 Fed. Reg. 46598 (October 22, 1976)
42 Fed. Reg. 37668 (July 22, 1977)
42 Fed. Reg. 38569 (July 29, 1977)
43 Fed. Reg. 27463 (June 23, 1978)
43 Fed. Reg. 28474 (June 30, 1978)
43 Fed. Reg. 35036 (August 8, 1978)
46 Fed. Reg. 32022 (June 19, 1981)
52 Fed. Reg. 16095 (May 1, 1987)
58 Fed. Reg. 21778 (April 23, 1993)
59 Fed. Reg. 6170 (February 9, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 51748 (October 12, 1994)
61 Fed. Reg. 5510 (February 13, 1996)
61 Fed. Reg. 9255 (March 7, 1996)
70 Fed. Reg. 77003 (December 29, 2005)
76 Fed. Reg. 33606 (June 8, 2011)

These federal rules shall apply and be interpreted to apply to the Iowa occupational safety and health Act, Iowa Code chapter 88, and enforcement by the labor commissioner.

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

[ARC 8434C, IAB 12/11/24, effective 1/15/25]

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CHAPTER 29
SANITATION AND SHELTER RULES FOR RAILROAD EMPLOYEES

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 6/22/94, see 347—Chapter 52]

[Prior to 10/21/98, see 347—Ch 29]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

875—29.1(88) Definitions. As used herein or in connection with these rules, the following terms mean:

29.1(1) *Bunk or section house.* Any building or portion thereof, excepting a family dwelling, in which persons employed by railroad companies are furnished sleeping or living accommodations.

29.1(2) *Caboose.* Any car or coach used on a train to carry the train crew.

29.1(3) *Camp car.* Any group of sleeping, dining, kitchen or recreation cars, on or off rail, furnished for the use of any one gang or group of employees.

29.1(4) *Company.* A common carrier railroad company as an employer.

29.1(5) *Employee.* Any person employed by a company to which these rules apply.

29.1(6) *Dressing room.* A room used by employees either as a dressing room, or as a restroom, or for both purposes.

29.1(7) *Number of employees.* Unless otherwise specified, the maximum number of employees going on or coming off shift within any single hour.

29.1(8) *Railroads.* Common carrier railroads.

29.1(9) *Sanitary.* Free from or effective in preventing or checking agencies injurious to health, especially filth and infection.

29.1(10) *Station.* A location where freight or passenger traffic is ordinarily received and delivered and at which an employee is regularly assigned for duty.

29.1(11) *Terminal.* A location where engine and train crews in yard and train service and switchmen, switch tenders and car clerks are regularly required to report for or relieved from duty.

29.1(12) *Toilets.* Fixtures such as flush toilets, chemical closets, incinerator-type toilets, or privies for the purpose of defecation unless otherwise specified.

29.1(13) *Usual place of employment.* The place where an employee works with a reasonable measure of continuity throughout the major part of company service.

29.1(14) *Yards.* Yards, section headquarters, and locomotive and car shops.

29.1(15) *Office work area.* A yard office; station; depot; terminal; or freight, baggage and express office that is a permanent or semipermanent stationary facility located on railroad property and a usual place of employment for the performance of clerical or work concerned with or identified with the office functions of the company.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.2(88) Water supply—requirements.

29.2(1) *General specifications.* Water supplied for domestic and drinking purposes under these regulations will meet the standards of the department of health and human services. Cross-connections between a potable and nonpotable water supply are prohibited.

29.2(2) *Drinking water.*

a. An adequate supply of cool, clean, sanitary water that is satisfactory for drinking purposes will be made available to all employees.

b. When necessary, this water will be provided in suitable, clean, sterilized and sanitary containers conveniently placed for the use of employees, but not in toilet rooms. Each container will be equipped with an approved type of fountain, approved faucet or other approved dispenser.

c. Either single-service containers or drinking fountains with a sanitary angle head will be used.

29.2(3) *Required locations.*

a. Drinking water that meets the specifications of subrules 29.2(1) and 29.2(2) will be provided on the following equipment when in use and at the following locations:

(1) All locomotives.

(2) Baggage and express cars (where employees are assigned for work en route).

- (3) Cabooses.
- (4) Camp cars.
- (5) All terminals.
- (6) All yard offices.
- (7) All stations.
- (8) All freight, baggage, and express offices (located on railroad property).
- (9) All shops and engine houses.
- (10) All bunk or section houses and section headquarters.
- (11) All lunchrooms located on railroad property.
- (12) All permanent watchmen shelters at public highway crossings.
- (13) All maintenance-of-way camps.
- (14) All office work areas.

b. Reserved.

29.2(4) Washing facilities.

a. *General specifications—wash basins—lavatories.*

(1) Wash basins or lavatories will be made of vitrified glazed earthenware, vitreous enameled metal, or other smooth-finished material, impervious to moisture.

(2) Twenty-four inches of trough or circular wash basin will be considered the equivalent of one wash basin. The trough or circular wash basins will not be equipped with a plug or stopper.

(3) Spring-closing, hand-operated faucets are prohibited in trough wash sinks or circular basins.

b. *Wash basins—availability.*

(1) An adequate number of wash basins or lavatories for maintaining personal cleanliness will be provided within reasonable access for all employees normally assigned to work at the following locations: all terminals; all yard offices; all stations; all freight, baggage and express offices (located on railroad property); all shops and engine houses; all lunchrooms located on railroad property; and at all bunk or section houses.

(2) One lavatory for every 10 employees or portion thereof, up to 100 persons; and over 100 persons, one lavatory for each additional 15 persons or portion thereof will be provided.

(3) At least one wash basin will be located in or adjacent to each toilet room.

c. *Wash basins—supplies.*

(1) Hot and cold running water will be supplied.

(2) Mechanical drying facilities or individual towels, either paper or cloth, will be provided.

(3) Waste receptacles will be provided for used paper towels.

(4) Soap or other suitable cleansing agent will be supplied at each wash basin.

29.2(5) Showers, locker rooms, dressing rooms and lockers.

a. *Showers.*

(1) Showers will be required when such facilities are necessary at specified locations to protect employees whose work involves exposure to poisonous, infectious or irritating material or to excessive dirt, heat fumes or vapors or other materials or substances injurious to health. Such shower facilities will be provided in conjunction with adequate and necessary locker or dressing room facilities.

(2) Showers will be connected to an ample supply and pressure of hot and cold water, preferably mixed.

(3) Each shower room or compartment will be constructed of material impervious to moisture.

(4) Each shower compartment will be not less than 36 inches in width and 36 inches in depth.

b. *Lockers or dressing rooms.*

(1) In all places of employment where, because of the nature of the work, it is necessary to change clothing, a locker room will be provided separated from toilet rooms by solid partitions and doors. Such locker rooms will have not less than 80 square feet of floor space per ten employees, or portion thereof, and for each additional employee, not less than 4 additional square feet will be added thereto. Necessary furniture, such as benches and tables, will be provided.

(2) Such locker or dressing rooms will be properly lighted, heated to a minimum of 65°F and adequately ventilated. Where practicable, cross-ventilation will be provided.

c. *Lockers.* In all places of employment where the nature of the employment requires a change of clothing, individual metal lockers will be provided. The dimensions of metal lockers will be not less than 12 inches wide, 18 inches deep and 72 inches high, exclusive of legs or other base. The lockers will be equipped with a shelf and with not less than one clothes hook for each side or equivalent hanger bar, and sufficient openings in the door for purposes of ventilation. Wooden lockers are prohibited.

d. *Separate facilities for women.*

(1) In instances where women or girls are employed in such activities, the showers, lockers and dressing rooms used by them will be separate and apart from those used by the men and boys.

(2) Such facilities will have separate entrances and exits and will be so marked.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.3(88) Toilets—requirements.

29.3(1) General.

a. Where running water and sewer or septic tank connections are reasonably available, flush-type toilets and urinals will be maintained.

b. Chemical toilets or privies may be used where it is impractical to install inside toilet or urinal facilities.

c. No privy, urinal, cesspool, septic tank or other receptacle for human excrement will be constructed, maintained or used, except those maintained on moving equipment, which directly or indirectly drains or discharges over, into or upon the surface of the grounds, or into the waters of the state, either directly or indirectly, unless the contents of such urinal, cesspool, septic tank or receptacle for human excrement are subjected to some recognized sterilization treatment approved by the department of health and human services.

29.3(2) Water closets.

a. Every flush toilet will have a rim flush bowl or be so constructed as to prevent the accumulation of fecal matter on the bowl. The bowl will be constructed of smooth-finished material impervious to moisture.

b. Every such bowl will be so installed that the surroundings and floor space can be easily cleaned.

c. No pan, plunger or wash-out water closets are permitted, except that pan or double-pan types are permitted for running facilities.

d. Every flush toilet will have a separate hinged seat made of a material, other than metal, that does not absorb moisture or that will be finished with substances resistant to moisture.

29.3(3) Urinals.

a. Every urinal will be made of smooth-finished material impervious to moisture.

b. Every urinal will be located within a toilet room.

c. Twenty-four inches of trough urinal will be equivalent to an individual urinal.

d. Wherever a slab urinal is installed, the floor, for a distance of not less than 24 inches in front of the urinal, will be sloped toward the urinal drain with adequate splash guards.

e. Every urinal will be flushed from a water-supplied tank or through valve, and flush valves will be installed with an approved backflow preventer. Every such tank will furnish an adequate quantity of water for each discharge for every fixture. In place of such discharge from a tank or flush valve, water may be allowed to run continuously over slab or trough urinals.

f. Clear floor space allowed for each urinal or its equivalent will be not less than two feet in width; adequate passage will be allowed.

29.3(4) Chemical toilets. All chemical toilets installed will be of a type approved by the division of labor services. Containers will be charged with chemical solution of proper strength, and their contents will be agitated daily with proper devices provided for that purpose. When containers are more than two-thirds full, the contents will be disposed of in an approved manner, such as by burial or into a public sewer system. The stacks connecting the seats with the containers will be cleaned as often as is necessary to keep them in a clean and sanitary condition.

29.3(5) Incinerator toilets.

a. All incinerator toilets used on railroad equipment must be of a type approved by the division of labor services.

b. The installation and method of venting must be approved by the division of labor services.

c. Clear and concise instructions must be provided by the railroad company to ensure that the units are operated correctly.

29.3(6) Privies.

- a. All privies will be located so as to avoid contaminating any water of the state.
- b. A suitable approach, such as concrete, gravel or cinder walk, will be provided.
- c. Privies will be constructed and maintained insect- and rodent-proof.
- d. Every privy will be provided with a door, and such door will be self-closing.
- e. The lids over the seats will be so constructed as to fall into a closed position when the seat is not occupied.
- f. The pit or vault will be ventilated to the outside air by means of a stack protected at its outlet and by screens.
- g. Individual seats will be provided in accordance with the ratio hereinafter set forth.

29.3(7) Toilet rooms—specifications for.

- a. *Separation.*
 - (1) No toilet room will have direct communication with any room in which unwrapped food products are prepared, stored, handled or sold unless separated from said room by a self-closing door maintained in operating condition.
 - (2) Separate toilet facilities will be provided for each sex.
 - (3) There will be no direct connection between toilet rooms for men and women. Each will have a separate entrance, and each door leading thereto will have an automatic closing device maintained in operating condition.

b. *Compartments.* Each water closet in toilet rooms containing more than one water closet, or water closets, together with one or more urinals, will be in an individual compartment.

c. *Ventilation.* Every toilet room will be adequately ventilated.

d. *Lighting.* All toilet facilities will be well-lit during working hours.

e. *Heating.* Except privies, every toilet room will be kept adequately heated.

f. *Screens.* All windows, ventilators and other openings will be screened to prevent the entrance of insects. Toilet rooms will be kept free of insects and vermin.

29.3(8) Toilets—number required—general.

- a. Adequate toilet facilities will be provided for all employees. Such facilities will be conveniently located and accessible and will be maintained in a usable and sanitary condition.
- b. The following table will be used as a guide in determining the adequacy of toilet facilities.

Number of Employees	Minimum Number of Facilities
1 to 10 persons	1 toilet
11 to 24 persons	2 toilets
25 to 49 persons	3 toilets
50 to 74 persons	4 toilets
75 to 100 persons	5 toilets
Over 100	1 toilet for each additional 30 persons

c. Whenever urinals are provided, one urinal may be substituted for one toilet, provided the number of toilets will not be reduced to less than two-thirds of the number shown in the foregoing table.

29.3(9) Toilets—supplies.

a. *Toilet paper.* An adequate supply of toilet paper with holder will be supplied by the employer for each toilet.

b. *Sanitary napkins.* In all toilet rooms used by women, the company will permit the installation of dispensing machines for sanitary napkins.

29.3(10) Toilets—location of and type.

a. Appropriate toilets will be provided on the following facilities:

- (1) All locomotives, except when used in yard service or as unmanned auxiliary units.
- (2) Baggage and express cars where employees are required to work en route.
- (3) Cabooses.
- (4) All terminals.

- (5) All yard offices.
- (6) All stations or depots.
- (7) All freight, baggage and express offices (located on railroad property).
- (8) All engine houses and shops.
- (9) All bunk or section houses and section headquarters.
- (10) Lunchrooms located on railroad property.
- (11) All maintenance-of-way camps.
- (12) Crossing watchman locations, where practicable, and where such facilities are not otherwise readily and conveniently located.
- (13) All office work areas.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.4(88) Eating places and lunchrooms—requirements.

29.4(1) *Eating places.*

a. Whenever practicable and at all permanent and semipermanent installations, an acceptable place, maintained in clean and sanitary condition, with adequate space for eating meals will be provided for employees who bring their meals to their place of employment or eat their meals prepared at the camp facilities.

b. Eating places will be so constructed as to permit their being readily cleaned, and they will be kept clean, in good repair and free of rodents, insects and vermin.

c. Kitchen cars or other camp facilities will have adequate equipment for the sanitary preparation, cooking and refrigeration of food.

29.4(2) *Lunchrooms.*

a. Concessionaire facilities provided by the company in lieu of direct company operation will comply with these rules with respect to adequate space, adequate food handling facilities and cleanliness.

b. Adequate table and seating facilities will be provided for the maximum number of employees using the room at any one time.

29.4(3) *Lunchrooms and eating places—additional requirements.*

a. General. The minimum area of lunchrooms, or the amount of space to be added to that required for a locker room where a lunchroom is not provided, will be based upon the maximum number of employees using the room or added space at any one time, generally in accordance with the following table:

Number of Employees	Square Feet Per Employee
25 and less	13
26 to 74	12
75 to 149	11
150 and over	10

b. Ventilation. Every eating place and lunchroom will be adequately ventilated. Where practicable, cross-ventilation will be provided.

c. Lighting. All lunchrooms will be clearly lighted at all times during hours of use.

d. Heating. Every lunchroom will be kept reasonably heated at all times.

e. Screens. The windows, ventilators and doors opening to the outside of all lunchrooms will be properly screened during the season when insects are prevalent.

f. Waste disposal. One or more covered receptacles, as may be necessary, will be furnished in lunchroom and eating places for the disposal of waste food and other waste matter. Such containers will be emptied regularly and cleaned as often as is necessary. The area where the receptacles are kept will be maintained free of litter occurring from the possible overflow of such receptacles.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.5(88) Sleeping accommodations—requirements.

29.5(1) *Running facilities.* Camp cars, other than passenger coaches, furnished for sleeping purposes, will provide at least 50 square feet of floor space for each person with a ceiling height of not less than 7

feet. Where double bunks are used, at least 30 square feet of floor space will be provided for each person so accommodated. Where passenger coaches are furnished, the division of labor services may designate the number of persons to be housed in each coach.

- a. Walls, floors and ceilings will be so constructed as to permit them to be readily cleaned.
- b. Exterior windows and doors will be weather stripped during the cold weather.
- c. Screens will be provided during the season when insects are prevalent for outer doors and windows.
- d. Heating facilities and adequate fuel will be provided with which employees may maintain a comfortable temperature as weather conditions may require.
- e. Lighting by windows or acceptable artificial illumination will be provided.
- f. Ventilation will be provided by windows opening directly to the outside air.
- g. Beds, bunks or cots with proper mattresses will be provided. Such beds, bunks or cots will be raised at least 12 inches above the floor and be located 2 feet or more from the side of any other bed, bunk or cot located in the same room and have at least 27 inches of clear space above it.

29.5(2) Stationary facilities.

- a. Dormitories or bunk rooms will be of such area as to provide at least 50 square feet of floor area for each person. Where double bunks are used, at least 30 square feet of floor space will be provided for each person so accommodated. The headroom of dormitories or bunk rooms will be at least 7 feet.
- b. Specifications for walls, floors and ceilings, lockers, drinking water, toilet accommodations, washing facilities, ventilation, lighting, heat, weather stripping, screening, beds, bunks or cots as described in running facilities of this rule will apply to stationary facilities.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.6(88) Cleanliness and maintenance—requirements.

29.6(1) General specifications.

- a. The company will provide for the cleanliness and maintenance of the facilities, fixtures and appurtenances referred to in these regulations. Said fixtures will be maintained in proper working order when offered for use.
- b. Toilet rooms and washrooms will not be used for storage.

29.6(2) Floors. Floors will be maintained in a clean and, so far as practicable, dry condition.

29.6(3) Screens. Screens required by these rules will be of 16 mesh or equal.

29.6(4) Receptacles for waste. Suitable receptacles will be provided and used for the storage of waste and refuse and will be maintained in a sanitary condition.

29.6(5) Yard servicing areas. Toilet waste will not be discharged onto the ground surface from railroad cars within servicing areas of yards. Such areas will be kept free of refuse, litter, debris, vermin and rodents.

29.6(6) Yard repair areas. Where work is performed in repair yards or on repair tracks in the open or in open sheds or pits, adequate drainage will be provided.

29.6(7) Running facilities.

a. Locomotives and yard diesels. During use, the cabs on locomotives will be heated to a minimum of 50°F at floor level.

(1) When required by the season of the year, doors and windows of all locomotives will be equipped with adequate protection to occupants from the elements by means of weather stripping or other device sufficient to provide equally adequate protection.

(2) Reserved.

b. Caboose.

(1) Caboose will be maintained in a clean and sanitary condition.

(2) When required by the season of the year, doors and windows of cabooses will be equipped with adequate weather stripping.

(3) Every caboose used in any train in this state, regardless of service, will be provided with a stove or other adequate means of heating. Caboose will be heated to a minimum of 50°F at floor level.

c. Running facilities will be equipped with shatterproof glass.

29.6(8) Stationary facilities.

a. Bed linen. Where bed linen is furnished by the railroad, it will be changed and fresh clean linen supplied at least once a week or for each new occupant.

b. Crossing watchmen facilities. Adequate shelter will be furnished and maintained for crossing watchmen. Such shelter will be adequately heated, sealed and insulated against cold and inclement weather.

c. Office work areas.

(1) Office work areas will be maintained in clean condition.

(2) Office work areas will be clearly lighted at all times during hours of use.

(3) Office work areas will be heated at all times during hours of use at not less than 65°F.

(4) Office work areas will be provided with cross-ventilation when possible.

(5) Windows, ventilators and doors opening to the outside of office work areas will be properly screened during the seasons when insects are prevalent.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

875—29.7(88) Conflicts resolved. In the event the rules in this chapter conflict or contain provisions inconsistent with the rules in 875—Chapter 10 or 875—Chapter 26, the applicable provisions of 875—Chapter 10 or 875—Chapter 26 prevail.

[ARC 8450C, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code section 88.5(11).

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CHAPTER 30
Reserved
CHILD LABOR

CHAPTER 31
Reserved

CHAPTER 32
CHILD LABOR

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 32]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—32.1(92) Definitions.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Filing date*” means the date a document is postmarked by the U.S. Postal Service, if the document is filed by mailing and the U.S. postmark is legible. For a document filed via facsimile transmission, “filing date” means the date the document is transmitted. For any other document, “filing date” means the date the document is received by the director.

“*Operated by the child’s parents,*” as used in Iowa Code section 92.17(2), means a business operated by the child’s parent or licensed foster parent who has control of the day-to-day operation of the business.

“*Serious injury or illness*” means an illness or injury requiring medical attention beyond first aid.

“*Week,*” as used in Iowa Code section 92.7, means Sunday through Saturday.

“*Willfully volunteering*” means performing service for a charitable or public purpose without promise, expectation, or receipt of compensation. A child is a volunteer only if services are offered freely and without direct or implied pressure or coercion from an employer. A child is not a volunteer if the child is otherwise employed by the same charitable or public organization to perform the same type of services as those for which the child proposes to volunteer. A child is a volunteer while working in commercial activities incidental to the stated purpose of a nonprofit organization.

“*Working days,*” as used in rule 875—32.12(92), means Mondays through Fridays but does not include Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice is not included and the last day of the 15 working days is included.

This rule is intended to implement Iowa Code chapter 92.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.2 to 32.4 Reserved.

875—32.5(92) Terms. The terms used in Iowa Code section 92.5 are defined and applied as specified in this rule.

32.5(1) *Cleaning products that require personal protective equipment.* Prior to allowing a 14- or 15-year-old to use cleaning products that require personal protective equipment, the employer shall submit to the director the following:

- a. The safety data sheets of all such chemicals the minor will use.
- b. What personal protective equipment the minor will be using with each chemical that requires it.
- c. Proof of training the minor on the use of the required personal protective equipment.

32.5(2) Definitions.

“*Car cleaning, washing, and polishing*” as used in Iowa Code section 92.5(9) does not include using chemicals that recommend personal protective equipment.

“*Laundering*” as used in Iowa Code section 92.5(12) includes laundering with residential-style machines and includes laundromats. It includes industrial laundering on the following conditions:

1. A parent or guardian gives written permission, to be kept on file by the employer, for the minor to do industrial laundering.
2. The minor is not exposed to any chemicals that recommend personal protective equipment.
3. The employer provides nonslip shoes.
4. The employer provides training on bloodborne pathogens.
5. The minor lifts loads of no more than 30 pounds.

“*Light tools*” as used in Iowa Code section 92.5(11) includes the listed tools that are up to 30 pounds.

This rule is intended to implement Iowa Code section 92.5.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.6(92) Terms. The terms used in Iowa Code section 92.6A are defined and applied as specified in this rule.

32.6(1) Definitions.

“Light assembly work” means assembling with nonpower hand tools and does not include welding.

“Properly licensed” means a minor who holds a current license from the National Pool and Waterpark Lifeguard Training Program in one of the following programs:

1. National Pool and Waterpark Pool Lifeguard.
2. National Pool and Waterpark Lifeguard Training.
3. National Pool and Waterpark Deep Water Lifeguard.

If there is a question whether a specific training course meets the requirements of these rules, information about the course should be submitted to the director for evaluation.

32.6(2) Waiver of weight limitation. An employer may submit an application for waiver to allow a 15-year-old person to load, unload, or lift up to 50 pounds for work allowed under Iowa Code section 92.6A(1). The application shall:

- a. Include information required by the director in an application form.
- b. Be signed by the employer, the minor employee, and a parent or guardian.
- c. Include documentation from a physician or physician’s assistant that the minor is physically capable of this work activity.

32.6(3) Waiver to unload lawn machines. An employer may submit an application consistent with paragraphs 32.6(2)“a” through “c” for a waiver to allow a 15-year-old person to unload lawn machines under Iowa Code section 92.6A(3).

This rule is intended to implement Iowa Code section 92.6A.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.7 Reserved.

875—32.8(92) Terms. The terms used in Iowa Code section 92.8 are defined and applied as specified in this rule.

32.8(1) “Work activities in or about plants or establishments manufacturing or storing explosives or articles containing explosive components” means:

a. All activities in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph 32.8(1)“b”) manufacturing or storing explosives or articles containing explosive components except where the activities are performed in a nonexplosive area.

b. The following activities in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(1) All activities involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other activities requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(2) All activities involved in the manufacturing, transporting, or handling of primers and all other activities requiring the performance of any duties in the same building in which primers are manufactured.

(3) All activities involved in the priming of cartridges and all other activities requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(4) All activities involved in the plate loading of cartridges and in the operation of automatic loading machines.

(5) All activities involved in the loading, inspecting, packing, shipping and storage of blasting caps.

c. Definitions.

“Explosives” or *“articles containing explosive components”* means and includes ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR Parts 71-78, in effect July 1, 1987).

“Nonexplosive area” means an area where none of the work performed in the area involves the handling or use of explosives; the area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings; the area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant that does not meet the criteria of this definition.

“Plant or establishment manufacturing or storing explosives or articles containing explosive components” means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

d. Nothing in this subrule prohibits light assembly work that is away from machines, and nothing in this subrule prohibits selling or assisting in the sale of consumer fireworks in accordance with Iowa Code section 10A.519.

This subrule is intended to implement Iowa Code section 92.8(1).

32.8(2) “Logging and the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill” means all related activities with the following exceptions:

a. Exceptions applying to logging:

(1) Work in offices or in repair or maintenance shops.
 (2) Work in the construction, operation, repair or maintenance of living and administrative quarters or logging camps.

(3) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining firefighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrol person away from the actual logging operations. This exception does not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(4) Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging activities prohibited by this subrule.

(5) Work in the feeding or care of animals.

b. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill:

(1) Work in offices or in repair or maintenance shops.
 (2) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
 (3) Pulling lumber from the dry chain.
 (4) Cleanup in the lumberyard.
 (5) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.

(6) Clerical work in yards or shipping sheds, such as done by order persons, tally persons, and shipping clerks.

(7) Cleanup work outside shake and shingle mills, except when the mill is in operation.

(8) Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.

(9) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(10) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury. The exceptions in subparagraphs 32.8(2)“b”(1) through 32.8(2)“b”(10) do not apply to a portable sawmill if the lumberyard of the sawmill is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained and work that entails entering the sawmill building.

Definitions.

“All activities in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill” means all work performed in or about any mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock; storing, drying, and shipping lumber, laths, shingles, cooperage stock, or other products of the mills and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term does not include work performed in the planing-mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

“Logging” means all work performed in connection with the felling of timbers; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of these products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term does not apply to work performed in timber culture, to timber-stand improvement, or in emergency firefighting.

This subrule is intended to implement Iowa Code section 92.8(2).

32.8(3) *“Operation of power-driven woodworking machines”* means operating power-driven woodworking machines, including supervision or controlling the operation of the machines, feeding material into the machines, and helping the operator to feed material into the machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding. Also included are activities of setting up, adjusting, repairing, oiling or cleaning power-driven woodworking machines and the operations of off-bearing from circular saws and from guillotine-action veneer clippers.

Definitions.

“Off-bearing” means the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this subrule include:

1. The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expansion roller, and
2. The following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: the carrying, moving or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling or loading of materials.

“Power-driven woodworking machines” means all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood or veneer.

This subrule is intended to implement Iowa Code section 92.8(3).

32.8(4) *“Work activities involving exposure to radioactive substances and to ionizing radiations”* means activity in any workroom in which radium is stored or used in the manufacture of self-luminous compound; self-luminous compound is made, processed or packaged; self-luminous compound is stored, used or worked upon; incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged; and other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled “Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure,” June 5, 1959.

Also included is any other work that involves exposure to ionizing radiations in excess of 0.5 rem per year.

Definitions.

“Ionizing radiations” means alpha and beta particles, electrons, protons, neutrons, gamma and X-ray and all other radiations that produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

“Self-luminous compound” means any mixture of phosphorescent material and radium, mesothorium or other radioactive element.

“Workroom” means the entire area bounded by walls of solid material and extending from floor to ceiling.

This subrule is intended to implement Iowa Code section 92.8(4).

32.8(5) “Operation of elevators and other power-driven hoisting apparatus” means:

a. Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one-ton capacity.

b. Work that involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

c. Work of assisting in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like activities.

d. Exception. Iowa Code section 92.8(5) does not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors that are interlocked with the car door so as to prevent the car from starting until all doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device that will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices that will normally bring the car to rest at either terminal and a final limit switch that will prevent the movement in either direction and will open in case of excessive over-travel by the car.

Definitions.

“Automatic elevator” means any passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by push buttons in a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

“Automatic signal operation elevator” means an elevator that is started in response to the operation of a switch (such as a lever or push button) in the car that when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

“Crane” means any power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term includes all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.

“Derrick” means any power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term includes all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

“Elevator” means any power-driven hoisting or lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction. The term includes both passenger and freight elevators (including portable elevators or tiering machines) but does not include dumbwaiters.

“High-lift truck” means any power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term means and includes high-lift trucks known as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but does not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.

“*Hoist*” means any power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term includes all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

“*Manlift*” means any device intended for the conveyance of persons that consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; the belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

This subrule is intended to implement Iowa Code section 92.8(5).

32.8(6) “Operation of power-driven metal forming, punching and shearing machines” means being the operator of or helper on the following power-driven metal forming, punching, and shearing machines:

a. All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

b. All pressing or punching machines, such as punch presses, except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

c. All bending machines, such as apron brakes and press brakes.

d. All hammering machines, such as drop hammers and power hammers.

e. All shearing machines, such as guillotine or squaring shears, alligator shears and rotary shears.

Also included are the occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

Definitions.

“*Forming, punching and shearing machines*” means power-driven metal-working machines, other than machine tools, that change the shape of or cut metal by means of tools, such as dies, rolls or knives that are mounted on rams, plungers or other moving parts. Types of forming, punching, and shearing machines enumerated in this subrule are the machines to which the designation is by custom applied.

“*Helper*” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove them from the machine.

“*Operator*” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

This subrule is intended to implement Iowa Code section 92.8(6).

32.8(7) “Mining” means all work performed underground in mines and quarries; in an underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where the operations are performed as a part of a manufacturing process.

The term “mining” does not include:

a. Work performed in subsequent manufacturing or processing operations, such as work performed in smelters; electro-metallurgical plants; refineries; reduction plants; cement mills; plants where quarried stone is cut, sanded and further processed; or plants manufacturing clay, glass or ceramic products.

b. Work performed in connection with petroleum production, in natural gas production, or in dredging operations that are not a part of mining operations, such as dredging for construction or navigation purposes.

c. Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.

d. Work in the operation and maintenance of living quarters.

e. Work outside the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property such as clearing brush and digging drainage ditches.

f. Work of track crews in the building and maintaining of sections of railroad track located in those areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and place that the building and maintenance work is being done.

g. Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.

h. Work in metal mills other than in mercury-recovery mills or mills using the cyanide process involving the operation of jigs, sludge tables, flotation cells, or drier-filters; hand-sorting at picking table or picking belts; or general cleanup.

Nothing in this subrule permits any employment of minors in any other activity otherwise prohibited by Iowa Code chapter 92.

This subrule is intended to implement Iowa Code section 92.8(7).

32.8(8) “Work activities in or about slaughtering and meat packing establishments and rendering plants” means:

a. All activities on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand truckers and similar activities that require entering workrooms or workplaces infrequently and for short periods of time.

b. All activities involved in the recovery of lard and oils, except packaging and shipping of the products and the operation of lard-roll machines.

c. All activities involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

d. All activities involved in the operation or feeding of the following power-driven meat processing machines, including setting up, adjusting, repairing, oiling, or cleaning the machines regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese):

(1) Meat patty forming machines, meat and bone cutting saws, knives (except bacon-slicing machines), head splitters, and guillotine cutters;

(2) Snout pullers and jaw pullers;

(3) Skinning machines;

(4) Horizontal rotary washing machines;

(5) Casing-cleaning machines such as crushing, stripping, and finishing machines;

(6) Grinding, mixing, chopping, and hashing machines; and

(7) Presses (except belly-rolling machines).

e. All boning activities.

f. All activities involving the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

g. All activities involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse or any quarter carcass of beef or horse.

Definitions.

“*Boning*” means the removal of bones from meat cuts. It does not include cutting, scraping or trimming meat from cuts containing bones.

“*Curing cellar*” means the workroom or workplace that is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include the workroom or workplace where meats are smoked.

“*Hide cellar*” means the workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

“*Killing floor*” means the workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed and the carcasses are dressed prior to chilling.

“Rendering plants” means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients and similar products.

“Slaughtering and meat packing establishments” means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses, poultry, rabbits or small game are killed, processed or butchered and establishments that manufacture or process meat products or sausage casings from these animals.

This subrule is intended to implement Iowa Code section 92.8(8).

32.8(9) *“Operation of certain power-driven bakery machines”* means operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and setting up or adjusting a cookie or cracker machine. However, this definition does not apply to the operation of pizza dough rollers that are a type of dough sheeter that have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers, that have gears that are completely enclosed, and that have microswitches that disengage the machinery if the backs or sides of the rollers are removed, only when all the safeguards detailed in Iowa Code section 92.8(9) are present on the machinery, are operational, and have not been overridden.

This subrule is intended to implement Iowa Code section 92.8(9).

32.8(10) *“Operation of paper-products machines”* means operating or assisting to operate any of the following power-driven paper-products machines and includes:

a. An arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

b. A platen die-cutting press, platen printing press, or punch press that involves hand feeding of the machine.

c. The activities of setting up, adjusting, repairing, oiling, or cleaning the machines in paragraphs 32.8(10)“*a*” and “*b*,” including those that do not involve hand feeding.

d. Loading material into paper/cardboard balers, except when the machine is powered off and the key is stored in a separate area from the machine.

Definitions.

“Operating or assisting to operate” means all work that involves starting or stopping a machine covered by this subrule, placing materials into or removing them from the machine, or any other work directly involved in operating the machine except loading material into balers when the machine is powered off and the key is stored in a separate area from the machine.

“Paper-products machine” means power-driven machines used in:

1. The remanufacture or conversion of paper or pulp into a finished product, including the preparation of materials for recycling.

2. The preparation of materials for disposal. The term applies to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

This subrule is intended to implement Iowa Code section 92.8(10).

32.8(11) *“Manufacturing brick, tile and related products”* means the manufacture of brick, tile and related products; includes the manufacture of clay construction products and of silica refractory products; and includes:

a. All work in or about establishments in which clay construction products are manufactured, except work in storage and shippings; work in offices, laboratories, and storerooms; and work in the drying departments of plants manufacturing sewer pipe.

b. All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

Nothing in this subrule permits any employment of minors in any other activities otherwise prohibited by Iowa Code chapter 92.

Definitions.

“Clay construction products” means brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. It does not include nonstructural-bearing clay products such as ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor nonclay construction products such as sand-lime brick, glass brick, or nonclay refractories.

“Silica brick or other silica refractories” means refractory products produced from raw materials containing free silica as its main constituent.

This subrule is intended to implement Iowa Code section 92.8(11).

32.8(12) “Operation of circular saws, band saws, and guillotine shears” means:

a. Operator of or helper on power-driven fixed or portable circular saws, band saws, and guillotine shears except machines equipped with full automatic feed and ejection.

b. Setting up, adjusting, repairing, oiling, or cleaning circular saws, band saws, or guillotine shears.

Definitions.

“Band saw” means a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

“Circular saw” means a machine equipped with an endless steel disc and having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

“Guillotine shear” means a machine equipped with a movable blade operated vertically and used to shear materials. The term does not include other types of shearing machines using a different form of shearing action, such as alligator shears or circular shears.

“Helper” means a person who assists in the operation of a machine covered by this subrule by helping place materials into or remove materials from the machine.

“Machines equipped with full automatic feed and ejection” means machines covered by this subrule that are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any body part in the point-of-operation area.

“Operator” means a person who operates a machine covered by this subrule by performing functions such as starting or stopping the machine, placing materials into or removing materials from the machine, or any other function directly involved in the operation of the machine.

This subrule is intended to implement Iowa Code section 92.8(12).

32.8(13) “Wrecking, demolition and shipbreaking operations” means all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

This subrule is intended to implement Iowa Code section 92.8(13).

32.8(14) “Roofing operations” means all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch; asphalt prepared paper; tile; slate; metal; translucent materials; and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term also includes all work performed in connection with the installation of roofs, including related metal work such as flashing; and alterations, additions, maintenance and repair, including painting and coating, of existing roofs. The term does not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment or similar appliances attached to roofs.

This subrule is intended to implement Iowa Code section 92.8(14).

32.8(15) “Excavation” means all activities involved with:

a. Excavating, working in, or backfilling (refilling) trenches, except manually excavated or manually backfilling trenches that do not exceed four feet in depth at any point or working in trenches that do not exceed four feet in depth at any point.

b. Excavating for buildings or other structures or working in the excavations, except manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, working in an excavation not exceeding four feet in depth, or working in an excavation where the side walls are shored or sloped to the angle or repose.

c. Working within tunnels prior to the completion of all driving and shoring operations.

d. Working within shafts prior to the completion of all sinking and shoring operations.

This subrule is intended to implement Iowa Code section 92.8(15).

32.8(16) to **32.8(19)** Reserved.

32.8(20) Work activities prohibited by the director include the following:

a. Activities involved in the operation of power cutters on corn detasseling machines.

b. Activities involved in the driving of power-driven detasseling machines unless the driver has a valid driver's license or a certificate issued by the Federal Extension Service showing that the driver has completed a 4-H farm and machinery program.

This subrule is intended to implement Iowa Code section 92.8(21).

This rule is intended to implement Iowa Code section 92.8.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.9(92) Terms. The terms used in Iowa Code section 92.8A are defined and applied as specified in this rule.

“Incidental” means not a primary activity of the minor.

“Intermittent and for short periods of time” may vary depending on the degree and type of hazard. The frequency and duration of an activity shall make it clear the employee is a learner rather than a production worker. The burden is on the employer to justify more than one hour per day or 20 percent of a shift.

“Written permission” includes a description of the activity that would otherwise be unlawful under Iowa Code section 92.8, including the expected frequency and duration of that activity.

This rule is intended to implement Iowa Code section 92.8A.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.10 Reserved.

875—32.11(92) Civil penalty calculation. An employer who violates this chapter or Iowa Code chapter 92 is subject to a civil penalty of not more than \$10,000 per violation as set forth in this rule.

32.11(1) *Counting the number of violations.*

a. Each day that a child works too many hours, works at a prohibited time, or works in a prohibited occupation is a separate violation.

b. The director may waive or reduce the penalty if this method of counting the violations would result in a penalty that is disproportionate to the harm done to the minor(s), the size of the employer, or both.

32.11(2) *Determining whether a violation is a repeat violation.* The higher penalty amounts outlined in subrules 32.11(4) and 32.11(5) for repeat instances may be assessed by the director if citations regarding the earlier instance or instances are final action and occurred less than five years before.

32.11(3) Reserved.

32.11(4) *Hours violations.* If a child is killed while working at a prohibited time or for excessive hours, the civil penalty is \$10,000 for each instance. For other time or hour violations, the penalties set forth in this subrule are applied.

a. The civil penalties for working less than 15 minutes before or after an allowed time are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	Warning letter
Second	\$100 civil penalty
Third	\$200 civil penalty
Fourth	\$500 civil penalty
Fifth	\$1,000 civil penalty
Each additional instance	\$2,500 civil penalty

b. For any time or hours violation not described elsewhere in this subrule, the following civil penalty schedule applies:

<u>Instance</u>	<u>Penalty</u>
First	\$100 civil penalty
Second	\$250 civil penalty
Third	\$500 civil penalty
Fourth	\$1,000 civil penalty
Each additional instance	\$2,500 civil penalty

32.11(5) Occupation violations.

a. If no serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$500 civil penalty
Second	\$1,500 civil penalty
Third	\$2,500 civil penalty
Fourth	5,000 civil penalty
Fifth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

b. If a nonfatal but serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$2,500 civil penalty
Second	\$5,000 civil penalty
Each additional instance	\$10,000 civil penalty

c. If a fatality results from the work, the civil penalty for allowing or permitting a child to perform prohibited work is \$10,000 for each instance.

32.11(6) Penalty reduction factors. Except for violations related to the death of a child while working, the director shall reduce the penalty calculated pursuant to subrules 32.11(1), 32.11(2), 32.11(4) and 32.11(5) by the appropriate penalty reduction percentages set forth in this subrule. However, if the director requests information relevant to the penalty assessment and the employer does not provide responsive information, the director will not reduce the penalty.

a. *Penalty reduction for size of business.* The director shall reduce a penalty as follows:

- (1) Thirty-five percent if the employer has 25 or fewer employees.
- (2) Fifteen percent if the employer has 26 to 100 employees.
- (3) Five percent if the employer has 101 to 250 employees.

b. *Penalty reduction for good faith.* The director may reduce a penalty by 15 percent based upon evidence that the employer made a good faith attempt to comply with the requirements. If at any time the director warned an employer in writing about a prohibited practice and a civil penalty is being assessed against the same employer for repeating the practice, the director shall not reduce the penalty based on good faith.

c. *Penalty reduction for history.* The director shall reduce a penalty by 10 percent if the director has not assessed a civil penalty under this chapter within the past five years.

This rule is intended to implement Iowa Code section 92.22.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

875—32.12(92) Civil penalty procedures.

32.12(1) Notice of civil penalty. The director shall serve a notice of proposed civil penalty by certified mail or in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure with a 15-day grace period before issuing the notice. The notice shall include the following:

- a. A statement that the notice proposes a civil penalty assessment for violation of child labor laws.
- b. Descriptions of the alleged violations including the provisions allegedly violated, the number of violations, and the proposed penalties.

c. A statement that the employer has the right to request a hearing by filing a notice of contest with the director within 15 working days from the receipt of the notice of proposed civil penalty and that if a notice of contest is not timely filed, the proposed civil penalty will become final agency action.

d. A reference to the applicable procedural provisions.

32.12(2) *Notice of contest.* The civil penalty proposed by the director is final agency action if the employer does not timely file a notice of contest. The filing date for a timely notice of contest is within 15 working days of the date the notice of proposed civil penalty was received by the employer. The notice of contest shall include the name, address, and telephone number of the employer's representative. If a notice of contest is filed by fax, the original shall be mailed to the director.

32.12(3) *Contested case procedures.* Contested case procedures are set forth in the director's rules and Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 92.22.

[ARC 8745C, IAB 1/8/25, effective 2/12/25]

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[Filed ARC 2134C (Notice ARC 2014C, IAB 5/27/15), IAB 9/2/15, effective 10/7/15]

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CHAPTER 33
Reserved

CHAPTER 34
WAGE CIVIL PENALTIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

875—34.1(91A) Civil penalties for Iowa Code chapter 91A violations. The director may, upon report of an affected employee or based on other credible information, seek to recover civil money penalties for violation(s) of Iowa Code chapter 91A.

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

875—34.2(91A) Investigation.

34.2(1) Prior to initiating a contested case proceeding, the director will, in writing, request written information from the complaining employee(s). This request for written information may be omitted for good cause, including urgent circumstances or the possession of sufficient reliable evidence from another source(s).

34.2(2) Prior to initiating a contested case proceeding, the director will, in writing, inform the employer of the nature of the alleged violation(s) and request the employer to provide, within 14 days, a response with relevant information, including information necessary for the to assess penalties. This request for written information may be omitted for good cause, including urgent circumstances or the possession of sufficient reliable evidence from another source(s).

34.2(3) The director may secure evidence or witnesses by administrative subpoena.

34.2(4) The director may, in response to a written complaint, request a warrant to enter a place of employment to inspect records, ask questions, and investigate in relation to possible violations of Iowa Code chapter 91A.

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

875—34.3(91A) Calculation of penalty.

34.3(1) The director will assess the penalty with due consideration for the size of the employer's business, the gravity of the violation(s), the good faith of the employer, and the history of previous violations by granting appropriate penalty reductions.

34.3(2) The gross penalty for each distinguishable violation will be \$500. The following are examples of distinguishable violations:

- a.* If the act or omission occurs during five consecutive pay periods affecting a single employee, there are five distinguishable violations.
- b.* If the act or omission occurs during a single pay period affecting 50 employees, there are 50 distinguishable violations.

34.3(3) The size of the business will be considered as follows:

Number of Employees	Penalty Reduction
1-25	25%
26-100	15%
101-250	5%
251+	0%

34.3(4) Gravity will be considered by giving a 20 percent penalty reduction for a low-gravity violation or a 10 percent reduction for a medium-gravity violation. High-gravity violations will receive no gravity reduction. The gravity of a violation will be based primarily on its actual or potential harm to employees. Following are examples of gravity determinations:

- a.* A low-gravity violation includes any merely technical violation of Iowa Code chapter 91A that does not substantially prejudice any employee.
- b.* A high-gravity violation includes any violation causing financial injury to an employee.

34.3(5) Good faith will be considered by giving a 15 percent penalty reduction when there is sufficient evidence that the employer made earnest attempts to be well-informed about and in compliance with Iowa Code chapter 91A. A good-faith reduction will not be given if the employer committed a

violation(s) after having received a complaint(s) or warning(s) about a practice clearly in violation of Iowa Code chapter 91A.

34.3(6) History will be considered by giving a 10 percent penalty reduction if the violation(s) was isolated. Consideration will be given to prior civil penalty complaints and may include prior wage claims. A history reduction will not be given if the violation(s) for which the penalty is being calculated occurred over an extended period of time.

34.3(7) If the employer does not, upon request of the director, provide information relevant to the penalty assessment, the director may deny any penalty reduction for which the employer does not provide responsive information.

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

875—34.4(91A) Settlement opportunity. Prior to initiating a contested case proceeding, the director will normally request, in writing, that the employer enter into settlement negotiations. This request may be omitted for good cause, including urgent circumstances or reasonable belief that the employer will not comply with the relevant section(s) of Iowa Code chapter 91A as part of a settlement. The director may, in consideration of the overall nature of the violations, the promptness of the employer's remedial action, and administrative efficiency, accept less than the full penalty from the employer at any time as a settlement.

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

875—34.5(91A) Notice of penalty assessment; contested case proceedings.

34.5(1) To initiate an Iowa Code chapter 17A contested case proceeding, the director will serve a notice of penalty assessment in a manner consistent with service of original notice under the Iowa Rules of Civil Procedure. Such notice will include the following:

- a. A statement that the notice concerns a civil penalty assessment for violation of wage laws.
- b. A statement that, if a hearing is requested by the employer, the director will determine, after the hearing is held pursuant to Iowa Code sections 91A.12(2) and 91A.12(3), whether the penalty assessment will be upheld.
- c. References to this chapter, Iowa Code section 91A.12, and any sections of Iowa Code chapter 91A that are alleged to have been violated.
- d. The type of violation(s).
- e. The number of violations.
- f. The amount of the penalty.
- g. A demand that the employer comply with the notice and recordkeeping requirements of Iowa Code section 91A.6(1).
- h. A statement that the employer has the right to request a hearing within 30 days.

34.5(2) Employer nonresponse. If the employer does not respond to the notice of penalty assessment within 30 days of being served, the director will assess the full proposed penalty, and such assessment will be final.

34.5(3) Employer request for hearing. The employer may request a hearing within 30 days of being served by mailing such request to the director. Such request will include the address to which notice of hearing should be mailed. Upon such request, notice of the time and place of hearing will be mailed to the employer and a hearing pursuant to Iowa Code chapter 17A will be conducted before an administrative law judge.

34.5(4) Failure to request judicial review. If, after hearing, the employer does not request judicial review of an adverse decision within 30 days, the ruling is final.

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

875—34.6(91A) Judicial review.

34.6(1) *Employer petition for Iowa Code chapter 17A judicial review.* The employer may request judicial review of an adverse ruling within 30 days. Such petition for review shall name the agency as respondent and shall contain a concise statement of the following:

- a. The nature of the agency action for which review is requested.
- b. The action for which review is requested.

- c. The facts on which venue is based.
- d. The grounds for the relief sought.
- e. The relief sought.

34.6(2) *Jurisdiction.* Judicial review will be in the district court of a county in which at least one violation occurred.

34.6(3) *Transmittal of record.* Within 30 days of the petition for judicial review, or longer as allowed by the court, the director shall transmit the record of the case to the reviewing court.

34.6(4) *District court remedies.* The district court may require the employer to deposit the amount of the assessed penalty with the clerk of court pending the outcome of the judicial review, may uphold the penalty, and may order that the employer comply with the notice and recordkeeping requirements of Iowa Code section 91A.6(1).

[ARC 8681C, IAB 12/25/24, effective 1/29/25]

These rules are intended to implement Iowa Code chapters 91A and 17A.

[Filed 1/16/07, Notice 12/6/06—published 2/14/07, effective 3/21/07]

[Filed ARC 8185B (Notice ARC 7952B, IAB 7/15/09), IAB 10/7/09, effective 11/11/09]

[Filed ARC 8681C (Notice ARC 8263C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]

CHAPTER 35
WAGE CLAIMS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 35]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—35.1(91A) Definitions.

“*Claimant*” means an employee who has submitted a wage claim form to the labor director.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Employee*” includes a former employee and does not include an independent contractor.

“*Enforceable*” means eligible for the enforcement actions of the director.

“*Legal action*” means filing in a court of competent jurisdiction and subsequent activity pursuant to that filing.

“*Wage claim form*” means a document of the director that requests information pertinent to unpaid wages that an employee submits to the director to commence investigation.

[ARC 8746C, IAB 1/8/25, effective 2/12/25]

875—35.2(91A) Right of private action. If a claimant wishes to pursue a private action after assigning a wage claim to the director, the claimant shall so notify the director in writing prior to commencing it.

[ARC 8746C, IAB 1/8/25, effective 2/12/25]

875—35.3(91A) Filing a claim.

35.3(1) *Wage claim form.* An aggrieved employee shall supply such information as required by the director to commence the investigation of a claim. The claimant shall certify by signature that such information is true to the best of the claimant’s knowledge and belief. A claim for wages may be sent to the director by mail, facsimile, or email.

35.3(2) *Assignment of claim.* By submitting a wage claim form to the director, a claimant assigns the claim to the director contingent on the director’s determination that the claim is enforceable. A claimant may terminate the assignment by so notifying the director in writing. The director may terminate the assignment upon a determination that the claim is not enforceable.

35.3(3) *Denial of claim.* The director may deny claims within 14 days of receipt. Reasons for denying a claim without further investigation include but are not limited to the following:

a. The claim is received by the director more than one year after the date the wages became due and payable.

b. The claim must be heard in another forum or jurisdiction.

c. The claimant has begun a legal proceeding on the claim or has legal representation to pursue the claim.

d. The claim has been discharged in bankruptcy.

[ARC 8746C, IAB 1/8/25, effective 2/12/25]

875—35.4(91A) Investigation.

35.4(1) *Receipt of wage claim form.* Upon receipt by the director of a completed and signed wage claim form, the director will review the claim. The director’s review is not a contested case as defined in Iowa Code chapter 17A.

35.4(2) *Employer notification of wage claim.* The director will notify the employer in writing of the allegations of the claimant and request a response from the employer within 14 days from the date of the letter. This period may be extended by the director for good cause.

35.4(3) *Failure of employer to respond.* If the employer fails to answer the director’s request for response within the 14-day period, or as extended by the director, the director may determine the claim to be enforceable.

35.4(4) *Additional information from claimant.* If the employer answers the director's request for response within the established time, the director may notify the claimant of the employer's response and afford the claimant an opportunity to present additional information.

35.4(5) *Additional information from employer.* Upon receipt of the requested additional information from the employee, the director may determine additional information is required from the employer.

35.4(6) *Determination of enforceability.* Upon receipt of sufficient information, the director may determine the claim for wages to be enforceable and notify the claimant and the employer of that determination.

35.4(7) *Determination of unenforceability.* The director may, at any time, determine a claim to be unenforceable. Should the director determine the claim is unenforceable, the director shall so notify the claimant. Reasons for the director to determine that a claim is unenforceable include but are not limited to the following:

- a. Doubtful legal validity or complexity of the claim.
- b. Doubtful ability to collect money from the employer.
- c. The claim may require extensive discovery or involve protracted proceedings.
- d. The potential value of the claim is such that the cost of the claimant's obtaining legal counsel for a private action would not be prohibitive.
- e. The claimant is not responsive to the reasonable requests of the director, including but not limited to requests to provide information and to participate in a legal action.
- f. The claimant fails to notify the director of an address change.
- g. The inequity of the claim in the particular situation.
- h. Another jurisdiction or forum is preferable for the claim.
- i. A substantial probability that the claimant was not an employee.
- j. The claim has been included in a bankruptcy estate.

35.4(8) *Settlement of claim.* The director may settle a claim at any time with the consent of the claimant. Such consent may be included on the wage claim form.

[ARC 8746C, IAB 1/8/25, effective 2/12/25]

875—35.5(91A) Legal action on wage claims.

35.5(1) *Settlement opportunity.* The director will, in writing, afford the employer an opportunity to tender settlement 14 days prior to commencing a legal action.

35.5(2) *Counterclaims.* The director will not represent claimants on counterclaims or other legal actions brought by employers against claimants.

35.5(3) *Claimant participation.* The director may require the claimant to attend hearings and otherwise assist in the legal action as a condition of enforcing the claim.

[ARC 8746C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 91A.

[Filed 7/1/83, Notice 5/11/83—published 7/20/83, effective 9/1/83]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

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[Filed ARC 4639C (Notice ARC 4497C, IAB 6/19/19), IAB 8/28/19, effective 10/2/19]

[Filed ARC 8746C (Notice ARC 8264C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 36
WAGE DISCRIMINATION
[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 36]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/29/30

875—36.1(91A) Definitions.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*The Act*” means Iowa Code chapter 91A.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.2(91A) General requirements. An employer shall not discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Assigned a wage claim to the director;
3. Instituted or caused to be instituted any proceeding under or related to the Act;
4. Cooperated in bringing any action against an employer under or related to the Act;
5. Exercised on the employee’s behalf or on behalf of others any right afforded by the Act.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.3(91A) Unprotected activities distinguished.

36.3(1) Wage discrimination occurs when an employer engages in adverse action because the employee engaged in a protected activity. An employee’s engagement in activities protected by the Act does not automatically render the employee immune from adverse action dictated by nonprohibited considerations.

36.3(2) A violation exists if the protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place “but for” engagement in the protected activity.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.4(91A) Complaint under or related to the Act. Discharge or discriminatory actions to an employee because the employee has filed a wage claim or asserted in good faith rights covered by the Act are prohibited.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.5(91A) Proceedings related to the Act. Discharge of or discrimination against any employee because the employee has cooperated in bringing any action against an employer related to the Act is prohibited. Protection under the Act would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, or adjudicative functions.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.6(91A) Filing of complaint for discrimination or discharge.

36.6(1) Any employee who believes that discrimination in violation of Iowa Code section 91A.10(5) has occurred may, within 30 days after the violation occurs, lodge a complaint with the director alleging the violation. No particular form is required. If, as a result of the investigation, the director determines that Iowa Code section 91A.10(5) has been violated, civil action may be instituted in any appropriate district court to restrain the violations and to obtain other appropriate relief.

36.6(2) Complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely. However, there may be circumstances that would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

875—36.7(91A) Decision of the director.

36.7(1) Upon receipt of all requested information, the director may determine the employee's complaint alleging discharge or discrimination is enforceable and notify the employee of that determination.

36.7(2) Upon a determination that the employee's complaint alleging discharge or discrimination is enforceable, the director will notify the employer of that determination in writing and afford the employer an opportunity to tender settlement within 14 days of the writing prior to initiating judicial proceedings.

36.7(3) Upon a determination that the employee's complaint alleging discharge or discrimination is unenforceable, the director shall notify the employee of that decision in writing. The employee shall have 14 days from the date of the written notification to appeal the decision to the director. If the appeal is not made in writing within the 14-day period, then the employee loses the right to appeal the unenforceable decision.

[ARC 8682C, IAB 12/25/24, effective 1/29/25]

These rules are intended to implement Iowa Code section 91A.10(5).

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[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed ARC 8682C (Notice ARC 8265C, IAB 10/30/24), IAB 12/25/24, effective 1/29/25]

CHAPTER 37
Reserved

CHAPTER 38
EMPLOYMENT AGENCY LICENSING
[Prior to 9/24/86, Employment Agency Licensing Commissioner[350] Chs 1 to 10]
[Prior to 10/21/98, see 347—Ch 38]
Transferred to 877—Chapter 34, IAC Supplement 6/26/24

CHAPTERS 39 to 50
Reserved

RAILROADS

CHAPTERS 51 to 60
Reserved

CHAPTER 61
AMUSEMENT RIDE INSPECTIONS

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 61]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—61.1(88A) Scope. 875—Chapters 61 through 63 do not apply to the following:

61.1(1) A water park or water park attraction, including but not limited to a water slide, wave action pool, and lazy river. This subrule does not apply to an amusement ride that propels patrons using a power source other than gravity even though water is present.

61.1(2) A live-animal ride.

61.1(3) A vessel inspected pursuant to Iowa Code chapter 462A.

61.1(4) An amusement structure in which the patrons navigate on their own power and the patrons do not ride, climb, or walk on a mechanical component.

61.1(5) A device that meets all of the following criteria:

- a. Was designed and built to be operated by a coin, card, or token;
- b. Was designed and built to be operated by the patron rather than an attendant;
- c. Operates on self-contained wiring that was installed by the manufacturer;
- d. Operates on less than 120 volts of electrical power; and
- e. Is within or is part of a structure subject to a state or local building code.

61.1(6) Playground equipment owned, maintained, and operated by any political subdivision of this state.

61.1(7) A concession booth, amusement device, or amusement ride that meets all of the following:

- a. Is owned and operated by a nonprofit organization or school; and
- b. Is located in a building subject to inspection by the state fire marshal or a local government.

61.1(8) Nonmechanized physical fitness and playground equipment unless a fee is charged to use the equipment.

61.1(9) Physical fitness equipment that does not meet the definition of “amusement device.”

61.1(10) A tramway used as a ski lift.

61.1(11) A scenic railway operating on standard-gauge rails.

61.1(12) A zip line or climbing wall located at a camp or retreat owned or operated by a nonprofit religious, educational or charitable institution or association.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.2(88A) Definitions. The definitions in this rule apply to 875—Chapters 61 through 63.

“*Air-supported structure*” means an amusement device that employs a high-strength fabric or film that achieves its strength, shape and stability from internal air pressure provided by a mechanical device such as an air blower or fan.

“*Amusement device*” means a climbing wall utilizing an auto belay system; a bungee jump as defined in 875—Chapter 63; a device allowing a patron to jump on a trampoline while attached to one or more bungee cords; a dry slide; a mechanical bull; a zip line that does not allow the rider to touch the ground at all times; and an air-supported structure.

“*ANSI*” means the American National Standards Institute.

“*ASTM*” means the ASTM Standards on Amusement Rides and Devices published by ASTM International.

“*Attendant*” means a paid or volunteer person who controls patron restraints or the operation, starting, stopping, or speed of covered equipment.

“*Carnival*” means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of health and human services, pursuant to Iowa Code chapter 252J; or

2. A certificate of noncompliance issued by the centralized collection unit, department of revenue, pursuant to Iowa Code chapter 272D.

“*Concession booth*” means a structure that is powered by electricity and offers amusements to the public at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days. A structure or enclosure offering only goods, food or beverages, rather than amusements, is not a “concession booth.”

“*Covered equipment*” means an amusement ride, amusement device, concession booth or related electrical equipment that is covered by Iowa Code chapter 88A.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Fair*” means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of covered equipment.

“*Inspector*” means an authorized Iowa Code chapter 88A inspector of the department of inspections, appeals, and licensing.

“*Major breakdown*” means stoppage of operation from any cause that results in damage, failure, or breakage in a stress-bearing part of covered equipment.

“*Major modification*” means any change to the structure of or to an operational characteristic, capacity, classification, or mechanism of covered equipment. “Major modification” includes but is not limited to changing the mode of transportation from non-wheeled to a truck or flat-bed mount or changing the mode of assembly or other operational functions from manual to mechanical or hydraulic.

“*NFPA*” means the National Fire Protection Association.

“*Operator*” means a person, or the agent of a person, who owns or controls or has the duty to control the operation of covered equipment at a carnival or fair. “Operator” includes an agency of the state or any of its political subdivisions. “Operator” includes a person who leases covered equipment and controls or has the duty to control its operation at a carnival or fair.

“*Related electrical equipment*” means a portable generator, blower, or other equipment necessary to the operation of an amusement ride, amusement device, or concession booth.

“*Reportable incident*” means an event described by one or more of the following:

1. Damage, failure or breakage of a stress-bearing part of an amusement ride or amusement device;
2. Cessation of covered equipment for more than 20 minutes with at least one rider aboard;
3. An occurrence that nearly resulted in personal injury; or
4. An occurrence that caused the operator to cease operations unexpectedly to avoid an injury or illness.

“*Rope lay*” means the length along the rope in which one strand makes a complete revolution around the rope.

“*Special operation*” means an unusual condition, interruption in operation, injury, emergency, or evacuation.

“*Walkway*” means a public passage through a carnival, fair, or park.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.3(88A) Owner and operator requirements. No person may operate covered equipment at a carnival or fair unless the person holds a current application certificate and the covered equipment has passed an Iowa inspection. The director reserves the right to deny inspection for any application submitted less than 60 days prior to operation at the first event.

61.3(1) Application certificate. No later than 60 days before operation begins each calendar year, the operator of covered equipment will apply to the director for an application certificate. Applications may be submitted in November for continuous operations. Applications are made on a form provided by the director. Each of the following are submitted with the completed application certificate:

- a. The application fee;
- b. A certificate of insurance issued by an insurance company authorized to do business in Iowa. The certificate of insurance will:

(1) Certify a policy in the minimum amount of \$1 million for bodily injury, death, or property damage in any one occurrence;

- (2) List the specific pieces of equipment that are covered and, if applicable, those that are not covered; and
- (3) Include “Department of Inspections, Appeals, and Licensing—Amusements” as a certificate holder;
- c. The operator’s itinerary identifying the covered equipment to be operated and the dates and locations where each will be operated;
- d. Certification of compliance with applicable training and maintenance requirements;
- e. Separately for each bungee jump:
- (1) A site operating manual;
- (2) A report that is prepared and sealed by a professional engineer who is licensed in Iowa and that certifies that the design and construction of the equipment and structure are suitable for the intended use and conform to Iowa law, recognized engineering practices, procedures, standards and specifications;
- (3) Site plan drawings depicting the preparation area, the jump space, the landing area, the recovery area and other features to be included in the approved operating site;
- (4) Specifications of equipment and structures; and
- (5) Depictions of the location, specifications, dimensions, and type of air bag, pool or body of water where the jumper will land.

61.3(2) *Changes to information submitted with application.* The operator will immediately notify the director of any changes to the operator’s itinerary or information provided with the application.

61.3(3) *Personal injuries and deaths.*

a. The operator will immediately report by telephone any accident that results in death or medical care beyond first aid.

b. Within 48 hours after an operator is notified of a claim or report to the operator’s insurance provider, the operator will submit a duplicate copy of the report or claim to the director.

c. The director may require that the scene of an accident be secured and not disturbed to any greater extent than necessary for removal of the deceased or injured person. If covered equipment is removed from service by the director, the covered equipment may be returned to service only upon the director’s authorization.

61.3(4) *Major breakdown report.* The operator will report a major breakdown of covered equipment to the director immediately and provide a detailed report in writing within 48 hours. The director may order the covered equipment to be withheld from operation, and in such case, the director will conduct an immediate investigation. The covered equipment may be released for repair and operation only after the director’s investigation is complete.

61.3(5) *Advance notice of major modification.* The operator will notify the director in writing at least ten days prior to a major modification and, if requested by the director, provide plans, diagrams, and ride analysis documentation consistent with ASTM F2291-15.

61.3(6) *Technical data.* If requested by the director, the operator will provide an English language version of the following:

a. Data concerning constant, reversible, or eccentric forces generated by acceleration, deceleration, wind, centrifugal action, or inertia.

b. Stress analysis and other data pertinent to the structural materials, design, structure, factors of safety or performance characteristics.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.4(88A) Inspection requirements. Pursuant to Iowa Code chapter 88A, covered equipment must pass an inspection at least annually. Inspections shall be performed according to the rules set forth and standards adopted in 875—Chapters 61 through 63.

61.4(1) *Inspection types.* In addition to the inspections listed below, an inspection may be conducted by the director at any time. No person will operate covered equipment at a fair or carnival unless the covered equipment has passed an inspection in the current calendar year.

a. *Annual inspection by owner.* At the discretion of the director, the owner of an air-supported structure may be designated by the director to perform the annual inspection of the owner’s air-supported structure, blower, and related electrical equipment. An owner designated pursuant to this paragraph will

perform the inspection according to applicable standards. The owner will submit in the format required by the director an affidavit attesting to the performance of the inspection, correction of code violations, and other required information. A designation pursuant to this paragraph terminates on December 31 of the year of issuance.

b. Annual inspection by an inspector. Unless an inspection is waived pursuant to Iowa Code section 88A.13, or the inspection is performed by the owner pursuant to paragraph 61.4(1)“a,” the director will inspect covered equipment prior to operation.

c. Major modification inspection. After covered equipment has undergone a major modification, the covered equipment must pass an inspection by the director before it is put back into use.

61.4(2) Safety order. If the inspector finds a code violation, the inspector will issue a safety order requiring that the condition be corrected. The deadline for correction of the code violation will be set forth in the safety order.

61.4(3) Cessation order. If the inspector identifies covered equipment that is hazardous or unsafe, the inspector will issue a cessation order that will be in effect until the director verifies it is corrected.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.5(88A) Amusement inspection sticker requirements. Covered equipment shall not be operated without a current sticker.

61.5(1) After covered equipment has passed an annual inspection by the inspector, the inspector will affix an amusement inspection sticker to the equipment where it is readily accessible.

61.5(2) After the director receives satisfactory proof of inspection from an owner designated by the director pursuant to paragraph 61.4(1)“a,” the director will issue a certificate of compliance.

61.5(3) After covered equipment passes a major-modification inspection, a new amusement inspection sticker will be issued.

61.5(4) Before covered equipment is sold, the seller will remove the amusement inspection sticker. If a current amusement inspection sticker is no longer legible, the operator may request a replacement sticker.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.6(88A,252J,272D) Termination, denial, suspension, or revocation of an operating permit.

61.6(1) All active application certificates terminate automatically on December 31 of the year of issuance.

61.6(2) The director may suspend or revoke an application certificate for any of the following reasons:

- a.* Negligence in the operation of covered equipment;
- b.* Repeated failure to perform or document proper daily inspections;
- c.* Misrepresentation of material information required as a part of the application certificate;
- d.* Failure to comply with a safety order or cessation order issued by the director;
- e.* Operation of covered equipment in disregard of public health, safety and welfare;
- f.* Termination of the required insurance coverage;
- g.* Failure to pay a liquidated debt owed to the director;
- h.* Receipt by the director of a certificate of noncompliance;
- i.* Failure of an operator to comply with the proper procedures;
- j.* Failure of an operator to provide an adequate number of properly trained and qualified attendants;

or

- k.* Submission of a false affidavit of annual inspection by the owner of an air-supported structure.

61.6(3) The director may deny an application if the application packet is inadequate or for any reason set forth as grounds for suspension or revocation of an application certificate.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

875—61.7(17A,88A,252J,272D) Procedures for revocation, suspension, or denial of an application certificate or amusement inspection sticker. The procedures set forth in this rule govern the revocation, suspension or denial of an application certificate or amusement inspection sticker.

61.7(1) In the event that immediate action is required due to imminent danger to the public health, safety or welfare, the following procedures shall apply:

- a. The director will prepare a safety order describing the hazardous condition and give the operator, or the operator's representative on site, a copy of the safety order.
- b. The director will remove the amusement inspection sticker or stickers from covered equipment.
- c. The director will proceed as quickly as feasible to give the operator an opportunity for a hearing as set forth in subrule 61.7(2).

61.7(2) In all other cases, the following procedures shall apply:

- a. The director will serve a notice by restricted certified mail to the address listed on the application or by other service as permitted by Iowa Code chapter 17A.
- b. The operator will have 20 days to file a written notice of contest with the director. If the operator does not file a written notice of contest within 20 days of receipt of the notice, the action stated in the notice is automatically effective.
- c. Hearing procedures of the department of inspections, appeals, and licensing will govern.
- d. Within five business days of final agency action revoking or suspending an application certificate, the operator shall forfeit the application certificate to the director.

[ARC 8827C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapters 17A, 88A, 252J, and 272D.

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CHAPTER 62
SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES,
AND CONCESSION BOOTHS

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 62]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—62.1(88A) Scope. Rule 875—62.2(88A) applies to all covered equipment. The remaining rules of this chapter apply to all covered equipment, except a bungee jump covered by 875—Chapter 63.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.2(88A) Other codes.

62.2(1) Nothing in 875—Chapters 61 through 63 provides an exemption, waiver, or variance from any otherwise applicable regulation or statute.

62.2(2) State fire marshal rules set forth in 661—Chapter 201 are adopted by reference.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.3(88A) Site requirements.

62.3(1) Design. The grounds of a fair or carnival shall be designed according to the following criteria:

- a. Clearance around covered equipment will meet or exceed the manufacturer's recommendations.
- b. Clearance between covered equipment and a facility for cooking will be at least 10 feet.
- c. Walkways will be wide, unobstructed, and open at each end.
- d. Walkways through concession booth backyards and over water lines and electrical lines will be avoided.
- e. Intermingling of water lines and electrical lines will be avoided.
- f. Guy wires, braces and ropes used for support:
 - (1) Will not be placed in walkways or in the entrances or exits for covered equipment; and
 - (2) Will be clearly marked with streamers or other devices when located adjacent to walkways.
- g. Stakes will be covered.

62.3(2) Housekeeping. Adequate containers for refuse will be provided. Accumulations of trash will be removed promptly.

62.3(3) Lighting. Entrances and exits for covered equipment will be provided with at least 5 foot-candles of light measured at grade level. No less than 10 foot-candles of light will be provided at all work levels for assembly and disassembly of covered equipment.

62.3(4) Internal combustion engines. Internal combustion engines will be a minimum of 5 feet from an air-supported structure and will be guarded or fenced to prevent patron exposure or access. An internal combustion engine operated in an enclosed area will be provided with fresh-air intake and an exhaust discharge flue.

62.3(5) Flammable waste and materials. An operator will provide identified covered and labeled metal containers for flammable waste. The containers will be available to staff and attendants but will not be accessible to patrons.

62.3(6) Storage of hazardous or flammable materials. Storage of more than 50 gallons of fuel, other flammable material, or hazardous gas is not permitted in any area accessible to the public.

62.3(7) Walking surfaces. Entrances and exits for covered equipment will be adequate, unobstructed, and in accordance with the manufacturer's instructions. Hazards, such as protruding nails, splinters, holes, loose boards, debris, obstructions, and projections, are prohibited. Stairways, ramps and railings will be provided where patrons enter or exit covered equipment above or below grade.

62.3(8) Fences. Fences or other barriers will be maintained to prevent movement. Placement of fences will be consistent with the recommendations of the manufacturer. If the manufacturer's recommendation regarding fences is not available, fences will meet ASTM standards.

62.3(9) Queue line. Lines will be designed to meet or exceed manufacture specifications.

62.3(10) Setup. Operators will follow the manufacturer's instructions to ensure that covered equipment is level and stable. If the manufacturer's instructions are not available, the setup will meet ASTM standards.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.4(88A) Design and manufacture of covered equipment. This rule sets forth requirements for the design and manufacture of all covered equipment, except a bungee jump covered by 875—Chapter 63.

62.4(1) Codes adopted by reference. ASTM F2374-10 applies to all air-supported structures notwithstanding the definition and use of the phrase “inflatable amusement device” in ASTM F2374-10.

a. *All covered equipment.* Equipment will comply with National Electric Code, NFPA 70-2014.

b. *Tramways.* All tramways subject to the rules of this chapter will be designed and tested in accordance with the ANSI B77.1 standard in effect at the time of installation.

c. *New covered equipment.* New covered equipment and covered equipment undergoing a major modification will be designed and tested in accordance with ANSI B77.1-2011 and ANSI B77.1A-2012 and ASTM F1159-15a, F1193-14, F1957-99(2011), F2007-12, F2137-15, F2291-15, F2374-10, F2375-09, F2376-13, F2460-11, F2959-14, and F2960-15, as applicable.

d. *Existing covered equipment.* Covered equipment manufactured before July 1, 2016, must comply with the applicable design criteria of subrule 62.4(2) through July 1, 2021. After July 1, 2021, covered equipment, except tramways, will meet the criteria for service-proven equipment set forth in ASTM F2291-15.

62.4(2) Design criteria. Structural materials and construction of covered equipment will conform to recognized engineering practices, procedures, standards and specifications. The design, materials and construction features will incorporate a safety factor of 5 or alternative safety factors recommended by the original manufacturer or by a professional engineer with credentials and experience acceptable to the director.

62.4(3) Front openings and awnings. Front openings and awnings will be stabilized with safety latches, safety pins, or other devices.

62.4(4) Shooting galleries. A shooting gallery will use only equipment, shells, pellets, and bullets designed for shooting galleries. Means will be provided to prevent turning the weapon away from the intended target.

62.4(5) Flying objects. Where flying objects, such as darts, balls, pellets, shot, and bullets, are a potential hazard:

a. Ricocheting will be prevented by absorbent wings or panels; and

b. Absorbing walls, sandbags, or other mechanisms will be installed along the bottom, back, and sides of the booth to protect passersby.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.5(88A) Maintenance of covered equipment—requirements. An operator will conduct periodic inspections, repairs, tests, and maintenance as set forth in this rule and the manufacturer's recommendations, as applicable. An operator will make a written record of all inspections, maintenance, tests, and repairs of covered equipment, and the records will be available to the director.

62.5(1) Nondestructive testing. The operator will ensure that appropriate nondestructive testing (NDT) is conducted and that documentation is available for review. NDT will be performed at the following times:

a. At intervals recommended by the manufacturer;

b. When required by the director due to a welded repair;

c. When required by the director due to a visual indication of a potentially hazardous condition; and

d. When recommended by a bulletin prepared according to ASTM F1193-14.

62.5(2) Wood components. The operator will remove a sufficient amount of soil around piling or wood members embedded in dirt to check for deterioration. When a wood piling requires replacement, the operator will install a concrete pier. The top of the pier will be installed so that the attached wood member is not exposed to dirt or water accumulation.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.6(88A) Operations—requirements. Operations conform to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F1957-99(2011), F2007-12, F2137-15, F2374-10, F2375-09, F2376-13, F2460-11, and F2959-14, as applicable. ASTM F2374-10 applies to all air-supported structures, notwithstanding the definition and use of the phrase “inflatable amusement device” in ASTM F2374-10. The director will enforce the minimum age requirements set forth below, rather than any minimum age requirement set forth in a code adopted by reference in this rule.

62.6(1) Attendants. The operator will provide a sufficient number of attendants in accordance with manufacturer specifications who will be recognizable by their uniforms. Covered equipment shall have continuous, direct supervision while in use by a patron.

a. Each attendant of a concession booth, except a shooting gallery or dart game, will be at least 14 years of age. All other attendants will be at least 16 years of age.

b. Each attendant will be trained according to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F2007-12, F2460-11, and F2959-14, as applicable. Training documentation will be available to the director.

c. When the covered equipment is shut down, provision will be made to prevent unauthorized operation.

62.6(2) Signal systems. When an attendant does not have a clear view of the point where passengers are loaded or unloaded, signal systems will be provided and utilized for controlling, starting and stopping covered equipment.

62.6(3) Overspeeding and overloading. An attendant will not load covered equipment beyond its rated capacity nor operate the covered equipment at a speed other than that prescribed by the design engineer or manufacturer.

62.6(4) Refueling. Fuel tanks for internal combustion engines should be large enough to run without interruption during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day’s operation, the covered equipment will be shut down and evacuated during refueling.

62.6(5) Safety stop device. After actuation of a safety stop device, the cause of the actuation will be determined and corrected before operation of covered equipment is resumed. No person will operate covered equipment if a safety stop device has been bypassed.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

875—62.7(88A) Patrons.

62.7(1) Emergency procedure. Will meet or exceed manufacturer specifications. If manufacturer specifications are not available, the emergency procedure will meet ASTM standards.

62.7(2) Medical and first aid. The operator shall make available to patrons the same medical and first-aid provisions the operator is legally obligated to provide to employees.

62.7(3) Evacuation plan. Evacuation plans shall meet or exceed manufacturer specifications. If manufacturer specifications are not available, evacuation plans shall meet ASTM standards.

[ARC 8828C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 88A.

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CHAPTER 63
SAFETY RULES FOR BUNGEE JUMPS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—63.1(88A) Definitions.

“Air bag” means a device that cradles the body by using an air release breather system to dissipate the energy due to a fall, thereby allowing the jumper to land without an abrupt stop or bounce.

“Approved operating site” means the area, including the preparation area, the jump space, the landing area and the recovery area, reflected on the site plan drawings submitted to the director by the operator.

“Bungee catapulting” means the action by which a jumper is held on the ground while the bungee cord is stretched causing the jumper to fly up when the jumper is released.

“Bungee cord” means the elastic rope to which the jumper is attached.

“Bungee jump” means the covered amusement device. “Bungee jump” does not mean a device allowing a patron to jump on a trampoline while attached to one or more bungee cords.

“Bungee jumping” means the action by which a jumper free falls from a height and the jumper’s descent is limited by attachment to the bungee cord.

“Bungee jump operation” means a site at which bungee jumping is conducted.

“Carabiner” means a shaped metal or alloy device used to connect sections of the jump rigging, equipment or safety gear.

“Cord” means a bungee cord.

“Dynamic load” means the load placed on the rigging and attachments by the initial free fall of the jumper and the bouncing movements of the jumper.

“Equipment” means each component that is utilized in a bungee jump operation, including devices used to raise, lower, and hold loads.

“Fence” means a structure designed and constructed to restrict people, animals and objects from entering the jump area.

“G-force” means acceleration felt as weight.

“Jump area” means the ground level area of the jump space.

“Jump direction” means the direction a jumper jumps when leaving the platform from the jump point. Jump direction is not affected by whether the jumper faces forward, backward or sideways.

“Jumper” means the person who, while attached to a bungee cord, falls or jumps from a platform or structure.

“Jump harness” means an assembly worn by a jumper and attached to a bungee cord.

“Jump height” means the distance from the jump point to the position on the ground where an object dropped from the jump point would impact in the absence of an air bag or other impediment.

“Jump master” means the person who is responsible for the bungee jump operation and who takes a jumper through the final stages to the actual jump or release.

“Jump point” means the location on the platform from which the jumper leaves the platform.

“Jump space” means the cylinder-shaped space with a center line extending downward from the jump point along the line of the jump height. The top of the jump space cylinder is at least 10 feet above the jump point. For jumps over land, the bottom of the jump space cylinder is the air bag. For jumps over water, the bottom of the jump space cylinder is the water surface. The distance from the jump point to the bottom of the jump space must be the maximum system length plus at least 30 feet. The radius of the cylinder must be at least 70 percent of the jump height.

“Landing area” means the surface where the jumper lands. If a lifting device moves the jumper so that landing occurs away from the jump area, the area covered by the movement of the lifting device is considered part of the landing area.

“Loaded length” means the length of the bungee cord when the cord is extended to its fullest designed length.

“Lowering system” means manual or mechanical equipment capable of lowering a jumper to the designated landing area.

“*Maximum system length*” means the maximum extended length of a bungee cord system including all attachments.

“*Mechanically powered lowering system*” means a system that utilizes a machine, rather than a human or other power source, to lower the jumper to the landing area.

“*Platform*” means the apparatus that is attached to a structure and from which a jumper falls or jumps.

“*Preparation area*” means the area where the jumper is registered, weighed, notified of potential risks, and otherwise prepared for the jump.

“*Recovery area*” means the area next to the landing area where the jumper may recover from the jump before exiting the bungee jump operation site.

“*Rigging system*” means the bungee cord plus any combination of components that connect the jumper through the bungee cord to an attachment point on the structure, lifting device or platform.

“*Rigging system attachment point*” means a device on the structure, lifting device or platform to which the rigging system is connected.

“*Safety line*” means a line used to connect a safety harness or belt to an anchor point.

“*Sandbagging*” means the practice of loading excess weight to a jumper in order to gain extra momentum on the rebound.

“*Site operating manual*” means the document containing the procedures and forms for the operation of bungee jumping activities and equipment.

“*Structure*” means a tower or similar structure used for bungee jumping.

“*Tandem jumping*” means the practice of having two or more people harnessed together while they jump or fall simultaneously from the same jump platform.

[ARC 8829C, IAB 1/22/25, effective 2/26/25]

875—63.2(88A) Prohibited activities. The following activities are prohibited:

1. Bungee catapulting where an overhead obstruction exists;
2. Sandbagging;
3. Tandem jumping; and
4. Jumping from a bridge, television tower, crane, grain bin, hot air balloon or any height not designed for the purpose of bungee jumping.

[ARC 8829C, IAB 1/22/25, effective 2/26/25]

875—63.3(88A) Site requirements.

63.3(1) Storage. Adequate storage will be provided to protect equipment from physical, chemical and ultraviolet-ray damage. The storage area will be secured against unauthorized entry.

63.3(2) Communications. There will be:

- a. A public address system in operation during the hours of business.
- b. A radio communication link between the platform and the staff responsible for jumper registration, landing, and recovery.
- c. A means on site to communicate with local emergency responders.
- d. A clearly visible sign at the entrance to the operating site setting forth medical restrictions for jumpers, the minimum-age requirement of 18 years of age, and instructions for jumpers.

63.3(3) Wind meter. An anemometer will be installed in accordance with the manufacturer’s recommendations and in a location easily visible to the staff.

63.3(4) Lighting. Adequate lighting will be provided at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. At a minimum, the lighting system will be capable of lighting the jump platform, the jump space and the landing area.

63.3(5) Fences. The operator will use fences in compliance with ASTM 2291-14, Part 14, to limit access to the site.

[ARC 8829C, IAB 1/22/25, effective 2/26/25]

875—63.4(88A) Design requirements.

63.4(1) Platform. A platform shall:

- a. Be capable of supporting at least five times the rated capacity or maximum intended load of the platform. If the jump equipment is attached to the platform as distinct from the structure, the dynamic load factor is added to the rated capacity or maximum intended load;
- b. Be attached with devices and to a part of the structure that is able to support at least five times the weight of the platform plus the rated capacity or maximum intended load;
- c. Have a slip-resistant floor surface;
- d. Have safety harness anchor points that are designed and located to facilitate ease of movement on the platform;
- e. Have a permanent enclosure, separate from the jump point, to contain the jumper during preparations such as fitting the jumper with a jump harness;
- f. Be equipped with a gate across the jump point. The gate will open to the inside of the platform and will have a safety lock or restraining device to prevent accidental opening;
- g. Be permanently marked with the maximum capacity of the platform and the rated capacity or maximum intended load; and
- h. Be configured to ensure that a jumper will not come into contact with the supporting structure or tower during the jump.

63.4(2) *Lowering system.*

- a. The system for lowering the jumper to the landing area will be capable of supporting at least five times the rated capacity or maximum intended load of the system. The lowering system will be mechanically powered and will not be capable of free fall.
- b. There will be, under the control of site personnel and described in the site emergency plan, an alternative method for jumper recovery.

63.4(3) *Bungee cord specifications.*

- a. The bungee cords will be designed and tested to perform within the prescribed limits of stretch and load as stated in this subrule. The cord will be made from natural or synthetic rubber or rubber blend. The extended length of the cord will be consistent each time the same load is applied.
- b. The G-force on a jumper using a waist and chest harness will not exceed 4.5. The G-force on a jumper using an ankle harness will not exceed 3.5.
- c. The cord configuration's minimum breaking strength divided by the maximum dynamic load possible for a jumper will be equal to or greater than 5.
- d. The design, manufacturing and testing of the bungee cords will meet the following specifications:
 - (1) In a single-cord system, the binding will hold the cord threads in the designed positions. The binding will have the same characteristics as the cord itself. In a multiple-cord system, the cords will be bound together in a manner that prevents potential entanglement of the jumper. The binding will not damage or affect the performance of the cords.
 - (2) A load-versus-elongation curve will be used to calculate the maximum G-force and factor of safety of the lot of bungee cords tested. These test results will be readily available to the director upon request.
 - (3) The end connections will have a minimum safety factor of five times the maximum dynamic load for the bungee cord configuration. End connections will be of a size and shape to allow easy attachment to the jumper harnesses and to the rigging. On multiple-cord systems, each cord will meet its own independent end connection. On multiple-cord systems, end attachment points will be bound together in a protective sheath that allows the individual ends to move with respect to each other.
 - (4) The operator will ensure that the manufacturer of a bungee cord performs conclusive minimum break strength testing on a representative sample of all manufactured bungee cords. Construction of bungee cord samples will be consistent with the manufacturer's standard methods, including bungee cord loop end connections that meet the specifications in this rule. The tests will be performed or supervised by an independent certified testing authority or an independent licensed professional engineer. The testing authority will determine the ultimate tensile strength of each test specimen and use the lowest failure value recorded as the ultimate tensile strength value for the corresponding lot of bungee cords. The ultimate tensile strength is reached when the applied load reaches a maximum before failure. Test results will be readily available to the director upon request.

63.4(4) *Jump harness and hardware.*

- a. The harnesses, webbing, bindings, ropes and hardware will be capable of supporting at least five times the rated capacity or maximum intended load.
- b. A jumper will be secured to the bungee cord at two separate points on the jumper's body. The jump harness system will be one of the following:
 - (1) A full body harness with two different and separate attachment points.
 - (2) A waist harness used with a shoulder harness.
 - (3) An ankle harness system with a safety line to a waist harness or a full body harness.
- c. Harnesses will be available to fit the range of patron sizes accepted for jumping.
- d. Harnesses will be specifically designed and manufactured for mountaineering or bungee jumping.
- e. The load-supporting slings or webbing will be flat or tubular mountaineering webbing or its equivalent. Minimum breaking strength will be 6,000 pounds. Slings or webbings will be formed by sewing or will be tied properly with a water knot with taped ends.
- f. Carabiners will be the steel screw, gate type with a minimum breaking strength of 6,000 pounds. The carabiners will be designed and constructed using the standards for mountaineering gear.
- g. The ropes, pulleys and shackles used to raise, lower or hold the jumper will have a minimum breaking strength of 6,000 pounds. The pulleys will be compatible with the rope.
- h. The rigging system will be attached to at least two rigging system attachment points. Each rigging system attachment point will meet or exceed the following:
 - (1) Each rigging system attachment point will have a safety factor of 5 and will be capable of bearing a weight of at least 8,000 pounds.
 - (2) If a rigging system attachment point is made of wire rope, it will have swaged ends with thimble eyes.
 - (3) If a rigging system attachment point is made of webbing, it will be manufactured by a company that manufactures the devices for crane and rigging companies.

63.4(5) Landing area, recovery area and jump area.

- a. A jump over land requires the use of an air bag certified by the manufacturer to be capable of protecting a body falling from the height of the jump point.
 - (1) The minimum impact surface area of the air bag will be as follows:

Jump Height	Minimum Impact Surface Area
0 - 99 feet	20 feet by 25 feet
100 - 149 feet	23 feet by 35 feet
150 - 200 feet	25 feet by 40 feet

- (2) The air bag will be in position before jumper preparation begins on the platform.
- (3) Upon completion of a jump, the jumper will be lowered into the landing area.
- (4) The landing area will be free of spectators at all times.
- (5) The jump space will be free of equipment and people when a jumper is being prepared on the jump platform and until the jumper lands in the landing area.
- (6) A place for the jumper to sit and recover will be provided close to but outside the landing area.
- b. The following requirements apply where a body of water is used instead of an air bag:
 - (1) The size of the body of water will meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
 - (2) The minimum water depth of the minimum impact surface area will be 10 feet.
 - (3) A vessel with at least two staff members will be positioned nearby to recover jumpers. The recovery vessel's crew will wear U.S. Coast Guard-approved life jackets. The recovery vessel will be equipped with U.S. Coast Guard-approved life jackets for jumpers and with rescue equipment.
 - (4) The jump area will be free of other vessels, floating or submerged objects, the public, and spectators. When the landing area is in open waters, it will be defined by the deployment of buoys. Signs of appropriate size stating "BUNGEE JUMPING—KEEP CLEAR" will be displayed.
- c. The following requirements apply where a pool of water is used instead of an air bag:

- (1) The pool size will meet the requirements for the minimum impact surface area set forth in this subrule for air bags.
 - (2) The minimum water depth will be 10 feet.
 - (3) Rescue equipment will be available.
 - (4) Only the operators and participants of the bungee jump will be within the landing area.
 - (5) The landing area will be enclosed by a fence of adequate height and design to prevent persons other than operators and jumpers from entering.
 - (6) The pool will conform to any applicable requirements enforced by the department of public health.
- [ARC 8829C, IAB 1/22/25, effective 2/26/25]

875—63.5(88A) Maintenance requirements. The operator will follow the inspection and testing recommendations of the equipment manufacturers. When those recommendations conflict with the testing and inspection provisions of this rule, the provisions affording the higher degree of safety will be followed. Inspections, findings and corrective action will be recorded in the site log.

63.5(1) Tests and inspections by the operator.

- a. The jump rigging, harness, lowering system and safety gear will be regularly inspected and tested as set forth in the site operating manual.
- b. In accordance with the site operating manual, the ropes, webbing and bindings will be inspected visually and by feel for signs of wear, fraying or damage.
- c. The cord ends will be inspected as often as the manufacturer specifies or no less than daily for wear, slippage or other abnormalities.

63.5(2) Replacement of rigging and equipment.

- a. Hardware that displays surface damage will be replaced immediately.
- b. Hardware that has been subjected to an abnormal loading or impact against hard surfaces will be replaced immediately.
- c. Substandard equipment, rigging or personal protective equipment will be replaced immediately.
- d. Bungee cords will be replaced when they have been subjected to the maximum number of jumps recommended by the manufacturer, when they exhibit deterioration or damage, or when they do not react according to specifications. Retired bungee cords will be cut into lengths of not more than 75 inches. The attachment points will be retired when the cord is retired.

63.5(3) Replacement equipment. Replacement equipment will be stored in a secure area to prevent tampering or vandalism. Replacement equipment for the following will always be available on the approved operating site:

- a. Bungee cords;
- b. Rigging ropes;
- c. Binding and ankle straps for jumpers;
- d. Jump harnesses; and
- e. Lifelines and clips.

63.5(4) Identification of equipment.

- a. Each bungee cord will have its own permanent identification number.
- b. The form of identification may not damage or detract from the integrity of the material.
- c. The identification will be clearly visible to the operators during daily operations.
- d. The identification of each piece of equipment will be recorded in the site operating manual.

[ARC 8829C, IAB 1/22/25, effective 2/26/25]

875—63.6(88A) Operations requirements.

63.6(1) Site operating manual. The operator will ensure that the site has an operating manual that includes the following elements:

- a. A site plan showing the fencing, the site furniture, the preparation area, the jump space, the jump area, the jump direction, the landing area and the recovery area.
- b. A site plan showing a profile of the site and defining the jump platform and its supporting structure, the maximum system length of the bungee cord, the jump space and the jump area.
- c. A complete description of each of the following:

- (1) The system of operation;
- (2) The components in the rigging system, including the manufacturer's specification or a laboratory test certificate of each component;
- (3) All safety and rescue equipment;
- (4) A job description for the personnel employed on the site and the minimum qualifications for each person;
- (5) Emergency procedures for all foreseeable scenarios;
- (6) Standard operating procedures for every person employed in processing the jumper;
- (7) The procedure for reporting accidents and reportable incidents to the director;
- (8) Equipment inspection procedures, including inspection recordkeeping;
- (9) Maintenance procedures; and
- (10) The method of verifying and recording each jump master's qualifications.

63.6(2) *Emergency provisions and procedures.*

a. Each approved operating site will have a written emergency plan. The plan will be made available to any local emergency service responsible for providing emergency rescue service.

b. At least one member of a bungee jump operation staff will have current first-aid and cardiopulmonary resuscitation certification and will complete an annual refresher course that includes evaluation of hands-on skills from the American Red Cross or equivalent.

c. For a jump over water, the jump master and at least one landing assistant will have current lifeguarding certification from the American Red Cross or equivalent.

d. Emergency lighting will be available in case of power failure at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. The emergency lighting system will be capable of lighting the jump platform, the jump space and the landing area. The emergency lighting system will have its own power source.

e. A backup means of communication will be available in case of a power failure.

f. The jump master or operator will cease jumping operations if wind speed exceeds 25 miles per hour or thunder is audible.

63.6(3) *Minimum staff.*

a. Prior to the opening of a bungee jump operation, the operator will train site personnel to be familiar with the boundaries of the jump space, the jump area, the site operating manual and the emergency plan.

b. A bungee jump operation will have at least one jump master, one jump assistant, one landing assistant, and one registration assistant present at all times during which jumping is being conducted.

c. The staff will be easily identifiable by their clothing.

d. Staff will be briefed for each day's operations. This briefing will include assignment of the designated jump master.

e. Each jump will be directly controlled by a jump master.

63.6(4) *Jump master.*

a. A jump master will be at least 18 years of age, will have assisted at least 25 jumpers, and will have received a minimum of 30 hours of jump training.

b. A jump master will have a thorough knowledge of the bungee jump site, its equipment, operating manual, procedures, emergency plan and staff duties.

c. A jump master will:

- (1) With the jump assistant, escort the jumper from the preparation area to the jump point;
- (2) Select the appropriate bungee cord and adjust the rigging for each jump;
- (3) Brief each jumper on the procedures for jumping, landing, lowering and recovery;
- (4) Take the jumper through the final stages before the jump;
- (5) Securely attach to the platform rigging bar or to the rigging the top end of the bungee cords before preparing the jumper;
- (6) Be present at the jump point during each jump;
- (7) Close the platform gate while no jumper is present;
- (8) Direct the operation of the lowering system;

- (9) Train other bungee jump operation staff; and
- (10) Ensure that the procedures set out in the site operating manual are followed.

63.6(5) *Jump assistant.* The operator or jump master will designate at least one individual to act as a jump assistant. The jump assistant will:

- a. With the jump master, escort the jumper from the preparation area to the jump point;
- b. Assist the jump master in preparing the jumper;
- c. Assist in attaching the jumper to the harness and rigging;
- d. Perform check procedures;
- e. Operate the lowering system; and
- f. Assist in controlling the public.

63.6(6) *Landing assistant.* The operator or jump master will designate at least one individual to act as a landing assistant. The landing assistant's duties include the following:

- a. Assisting the jumper to the landing pad;
- b. Assisting the jumper to the recovery area;
- c. Overseeing the recovery of the jumper; and
- d. Assisting in controlling the public.

63.6(7) *Registration assistant.* The operator or jump master will designate at least one individual to act as a registration assistant at each bungee jump operation site. The registration assistant will:

- a. Register the jumper;
- b. Inform each jumper that there are medical conditions that could be adversely affected by bungee jumping and that prior to jumping, the jumper should consult with a physician for more specific information regarding the medical risks;
- c. Weigh the jumper and mark the jumper's weight on the jumper;
- d. Control the movement of the jumper to the jump platform; and
- e. Assist in controlling the public.

63.6(8) *Jumper restrictions.*

- a. The minimum age for jumping is 18 years of age.
- b. A person who is visibly intoxicated or who is otherwise impaired will not be allowed to jump.

63.6(9) *Jumper registration.* The operator will ensure that a jumper provides the following information on the operator's registration form:

- a. The jumper's contact information, including name, address, and telephone number.
- b. The jumper's age and weight.

63.6(10) *Equipment replacement.*

- a. Jumping will cease immediately when substandard equipment is identified.
- b. The operator will obtain from the bungee cord manufacturer a written verification of the maximum number of jumps for which a particular cord may be used. The written verification will be kept on site and will be available to the director.
- c. The operator will keep a current, written record of each bungee cord used at the site. The bungee cord records will be organized by permanent, unique identification number and will include the number of jumps for each cord by date. The bungee cord records will be available to the director.

63.6(11) *Jump space and jump area.*

- a. Persons other than a jumper and objects other than the jumper's equipment will not be in the jump space at any time during jump operations.
- b. Persons other than site personnel and objects other than air bags and similar safety devices will not be in the jump area at any time during jump operations.
- c. The jump space and jump area will be identical to the jump space and jump area that the director approved.
- d. The preparation area will be separate from the jump area.

[ARC 8829C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 88A.

[Filed ARC 2428C (Notice ARC 2354C, IAB 1/6/16), IAB 3/2/16, effective 4/6/16]¹

[Filed ARC 8829C (Notice ARC 8374C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

- ¹ April 6, 2016, effective date of Chapter 63 [ARC 2428C] delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016; delay lifted at the meeting held April 8, 2016.

CHAPTER 64
Reserved

ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

CHAPTER 65

ELEVATOR SAFETY BOARD ADMINISTRATIVE AND REGULATORY AUTHORITY

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—65.1(89A) Definitions. The definitions contained in this rule apply to 875—Chapters 65 through 73.

“*Board*” means the elevator safety board.

“*Board office*” means the offices of the department of inspections, appeals, and licensing.

“*Conveyance*” means an elevator, construction personnel hoist, dumbwaiter, escalator, moving walk, lift or inclined or vertical wheelchair lift subject to regulation under Iowa Code chapter 89A and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.

“*Department*” means the department of inspections, appeals, and licensing.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

[ARC 8771C, IAB 1/8/25, effective 2/12/25]

875—65.2(89A) Authority of the board. The authority and responsibilities of the board include but are not limited to:

65.2(1) Adopting rules necessary to protect public health, safety and welfare and to administer the duties of the board.

65.2(2) Hearing and deciding appeals concerning inspection reports that relate to the installation, alteration, operation, and maintenance of conveyances in the state.

65.2(3) Hearing and deciding appeals concerning actions by the director to deny, suspend or revoke operating permits.

65.2(4) Establishing fees.

65.2(5) Establishing committees of the board.

[ARC 8771C, IAB 1/8/25, effective 2/12/25]

875—65.3(21,89A) Board officers. The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after July 1 of each year. Neither the director nor the director’s designee may serve as chairperson. The chairperson presides at meetings, appoints members and chairpersons of committees, and performs all duties and exercises all powers of the chairperson. The vice chairperson, in the absence or incapacity of the chairperson, performs all duties and exercises all powers of the chairperson.

[ARC 8771C, IAB 1/8/25, effective 2/12/25]

875—65.4(21,89A) Public meetings.

65.4(1) The board shall hold at least one meeting each calendar quarter.

65.4(2) Board meetings are governed in accordance with Iowa Code chapter 21 and conducted in accordance with Robert’s Rules of Order.

65.4(3) The chairperson or the chairperson’s designee prepares the agenda listing all matters to be discussed at the meeting.

65.4(4) A majority of the members of the board constitutes a quorum, and all final motions and actions must receive a majority of a quorum vote.

65.4(5) Members of the public may be present during board meetings unless the board votes to hold a closed session in accordance with Iowa Code chapter 21. The dates and locations of board meetings may be obtained from the board’s website or the board office.

65.4(6) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person when a particular topic comes before the board may be granted at the discretion of the chairperson. The chairperson may limit total public comment time to ten minutes.

65.4(7) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

65.4(8) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

[ARC 8771C, IAB 1/8/25, effective 2/12/25]

875—65.5(89A) Official communications. All official communications, including submissions and requests, are to be addressed to the Elevator Safety Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

[ARC 8771C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapters 21 and 89A.

[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]

[Filed ARC 8621B (Notice ARC 8322B, IAB 12/2/09), IAB 3/24/10, effective 4/28/10]

[Filed ARC 5570C (Notice ARC 5436C, IAB 2/10/21), IAB 4/21/21, effective 6/1/21]

[Filed ARC 8771C (Notice ARC 8319C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 66
WAIVERS FROM ADMINISTRATIVE RULES BY THE ELEVATOR SAFETY BOARD

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—66.1(17A,89A) Criteria for waiver. In response to a petition completed pursuant to this chapter, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

66.1(1) The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

66.1(2) The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

66.1(3) The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;

66.1(4) 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; and

66.1(5) There is a reasonable relationship between the age of the conveyance and the waiver requested.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.2(17A,89A) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

66.2(1) 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.

66.2(2) Other. 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.

66.2(3) Filing petition. A petition is deemed filed when it is received in the board's office. A petition should be sent to the Elevator Safety Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321. The petitioner shall submit the petition and all related materials for consideration at least three weeks prior to a scheduled board meeting for board review of the petition at the meeting.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.3(17A,89A) Content of petition. The required form for a petition for waiver is available on the department's website. A petition for waiver includes the following information where applicable and known to the petitioner:

66.3(1) 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.

66.3(2) A description of and citation to the specific rule from which a waiver is requested.

66.3(3) The specific waiver requested, including the precise scope and duration.

66.3(4) The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 875—66.1(17A,89A). 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.

66.3(5) 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 the conveyance affected by the proposed waiver.

66.3(6) The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.

66.3(7) The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

66.3(8) The state identification number of the conveyance.

66.3(9) The age of the conveyance.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.4(17A,89A) Waiver form. Waiver applicants shall use the board's petition for waiver form. The board may request additional information from the petitioner.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.5(17A,89A) Notice. The board shall acknowledge a petition within ten days of its receipt. The board shall ensure that notice of the pending petition has been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. 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.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.6(17A,89A) Board review procedures.

66.6(1) Petitions for waiver will normally be heard at the next scheduled board meeting following timely submission of the petition.

66.6(2) The petitioner will be provided a reasonable opportunity to make a presentation to the board.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.7(17A,89A) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case and otherwise apply to board proceedings for a waiver only when the board so provides by order or is required to do so by statute.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.8(17A,89A) Ruling. An order granting or denying a waiver 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.

66.8(1) *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.

66.8(2) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

66.8(3) *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.

66.8(4) *Conditions.* The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

66.8(5) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. A waiver may be renewed if the board finds that grounds for a waiver continue to exist.

66.8(6) *Time for ruling.* The board will grant or deny a petition for a waiver as soon as practical but, in any event, 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.

66.8(7) *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.

66.8(8) *Service of order.* Within 14 days of the ruling, 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.

66.8(9) Posting of orders granting waivers. The order or a copy of the order granting a waiver shall be conspicuously and permanently posted in the machine room corresponding to the conveyance. The order or a copy of the order granting a waiver that relates to a conveyance that does not have a machine room shall be posted in a protective sleeve attached to the inside of the controller cabinet door corresponding to the conveyance.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.9(17A,89A) Public availability. 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.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.10(17A,89A) Summary reports. Information about all orders granting or denying a waiver petition shall be submitted by the board staff to the legislative services agency within 60 days of granting or denying the petition.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.11(17A,89A) 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 review, the board issues an order finding any of the following:

66.11(1) 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

66.11(2) 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

66.11(3) The subject of the waiver order has failed to comply with all conditions contained in the order.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.12(17A,89A) Violations. Violation of a condition in a waiver order will 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.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

875—66.13(17A,89A) 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.

[ARC 8770C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapters 17A, 22, and 89A.

[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]

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CHAPTER 67
ELEVATOR SAFETY BOARD PETITIONS FOR RULE MAKING
Rescinded **ARC 8830C**, IAB 1/22/25, effective 2/26/25

CHAPTER 68
DECLARATORY ORDERS BY THE ELEVATOR SAFETY BOARD
Rescinded **ARC 8831C**, IAB 1/22/25, effective 2/26/25

CHAPTER 69
CONTESTED CASES BEFORE THE ELEVATOR SAFETY BOARD

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—69.1(17A,89A) Reconsideration of inspection report. The owner or operator of a piece of equipment subject to a written inspection report may petition the director for reconsideration of the report within 30 days of the issuance of the report. Failure to seek timely reconsideration of the inspection report is a waiver of all appeal rights. The burden of demonstrating compliance with all applicable statutory provisions, administrative rules, and codes adopted by reference rests upon the petitioning owner or operator.

69.1(1) A petition for reconsideration shall be in writing and must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's website. A petition for reconsideration specifies:

- a. The party seeking reconsideration, including mailing address and telephone number;
- b. The location of the equipment subject to the challenged inspection report;
- c. The inspection date;
- d. The inspector who issued the challenged inspection report;
- e. The specific findings or conclusions to which exception is taken;
- f. The relief sought.

69.1(2) A copy of the challenged inspection report shall be attached to the petition for reconsideration. The petitioning party shall also include all relevant documents that the petitioning party desires the director to consider when evaluating the petition.

69.1(3) The director or a designee of the director is authorized to seek additional information relating to a petition for reconsideration from the petitioning party or any other entity possessing information the director deems relevant to the petition. This subrule, however, does not impose any responsibility or duty on the director to discover documents or other information that was not submitted with the petition for reconsideration.

69.1(4) Any petition for reconsideration that is not received by the office of the director within 30 days of the issuance of the challenged inspection report is untimely and will not be considered by the director.

69.1(5) The director will not consider any request for waiver of an administrative rule made as part of a petition for reconsideration. Requests for waivers of administrative rules may only be made to the board pursuant to the provisions of 875—Chapter 66.

69.1(6) The director shall issue a written ruling on the petition for reconsideration. In ruling on a petition for reconsideration, the director may:

- a. Affirm the inspection report as issued;
- b. Issue an amended inspection report;
- c. Rescind the inspection report;
- d. Deny the petition as untimely.

69.1(7) Any petition for reconsideration that is not ruled upon by the director within 20 days of receipt by the office of the director shall be deemed denied and the challenged inspection report affirmed as issued.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.2(17A,89A) Appeal to the board.

69.2(1) A decision by the director to deny, suspend, or revoke an operating permit; a deemed denial of a petition for reconsideration; and the director's ruling on a petition for reconsideration are subject to appeal to the board.

69.2(2) An appeal to the board is a contested case proceeding subject to the provisions of Iowa Code chapter 17A.

69.2(3) The director has an automatic right of intervention in any appeal and shall defend the ruling in a contested case proceeding.

69.2(4) Only those issues raised by the petitioner in the petition for reconsideration will be preserved for appeal to the board in an appeal from the deemed denial of a petition for reconsideration and an appeal from the director's ruling on a petition for reconsideration.

69.2(5) At a minimum, an appeal includes a short and concise statement of the basis for the appeal. The required form for an appeal to the board is available on the board's website.

69.2(6) The deadlines for filing an appeal are set forth below.

a. Reconsideration of an inspection report. An appeal must be filed in writing with the board within 30 calendar days of the earlier of either the issuance of the director's written ruling on a petition for reconsideration or the deemed denial of a petition for reconsideration.

b. Notification of intent to deny, suspend, or revoke an operating permit. An appeal must be filed in writing with the board within 30 calendar days of the appellant's receipt of the notification of intent to deny, suspend, or revoke an operating permit.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.3(17A,89A) Informal review. If the appellant requests and the director does not object, the board may conduct an informal review of the facts and circumstances subject to the provisions of this rule.

69.3(1) In order to preserve the ability of board members to participate in decision making, a party who elects an informal review under this rule waives the party's right to seek disqualification of a board member as a presiding officer in a later contested case proceeding based on the board member's participation in the informal review. A party who elects informal review retains the right to seek disqualification of board members on any other ground pursuant to subrule 69.14(4).

69.3(2) The board may propose a preliminary order at the time of informal review. If a party does not consent to the preliminary order, a party must submit a request to proceed with formal contested case proceedings, including hearing, within ten days of the informal review.

69.3(3) Rules 875—69.4(17A,89A) through 875—69.31(17A,89A) do not apply during informal review.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.4(17A,89A) Delivery of notice. Delivery of the notice of hearing by the board constitutes the commencement of a contested case proceeding. Delivery may be executed by regular mail. The notice shall be delivered to the appellant; the appellant's attorney, if known; and the director.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.5(17A,89A) 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 short and plain statement of the matters asserted. If the board 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. The notice shall contain a statement that it is the appellant's burden on appeal to prove compliance with all applicable statutory provisions, administrative rules, and ASME code sections. The notice shall also contain a reference to the applicable statute and rules.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.6 Reserved.

875—69.7(17A,89A) File transmitted to the board. Within 30 days of the issuance of a notice of hearing, the director shall forward to each board member and all parties of record to the appeal copies of the applicable documents set forth below:

1. Inspection report,
2. Petition for reconsideration with the appellant's attachments,
3. Documents obtained by the director in ruling on the petition for reconsideration,
4. Ruling on the petition for reconsideration,
5. Decision denying, suspending, or revoking an operating permit, and
6. Appeal to the board.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.8(17A,89A) Legal representation. Any private party to a contested case is entitled to legal representation at the discretion and expense of that party.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.9(17A,89A) Presiding officer.

69.9(1) The presiding officer in all contested cases is the board, a panel of board members, or an administrative law judge assigned by the department of inspections, appeals, and licensing. When board members act as presiding officer, they shall conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. As provided in subrule 69.9(4), the board may be assisted by an administrative law judge when the board acts as presiding officer.

69.9(2) Any party to a contested case that wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing that identifies the presiding officer as the board. The board may deny the request only upon a finding that one or more of the following apply:

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

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

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

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

e. Funds are unavailable to pay the costs of an administrative law judge and an intra-agency appeal.

f. The request was not timely filed.

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

69.9(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is granted, the administrative law judge assigned to act as presiding officer and to issue a proposed decision in a contested case shall have a Juris Doctor degree unless this requirement is waived by the board.

69.9(4) The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

69.9(5) All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 875—69.26(17A,89A) and 875—69.27(17A,89A). A party must timely seek intra-agency appeal of prehearing rulings or proposed decisions in order to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

69.9(6) Unless otherwise provided by law, when reviewing a proposed decision of a panel of the board or an administrative law judge, board members have the powers of and shall comply with the provisions of this chapter that apply to presiding officers.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.10(17A,89A) Service and filing.

69.10(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record. 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.

69.10(2) *Service—how made.* Service upon a party represented by an attorney is 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.

69.10(3) Filing—when required. All documents that are required to be served upon a party shall be filed simultaneously with the board.

69.10(4) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

69.10(5) Proof of mailing. Proof of mailing includes either:

- a. A legible United States Postal Service postmark on the envelope;
- b. A certified mail return receipt;
- c. A notarized affidavit; or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Elevator Safety Board, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321 and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(Date)

(Signature)

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.11(17A,89A) Time requirements.

69.11(1) Time is computed as provided in Iowa Code section 4.1(34).

69.11(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.12(17A,89A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when the board deems the waiver to be inconsistent with the public interest.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.13(17A,89A) Telephone and electronic proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone. Objections, if any, are filed with the board and served on all parties at least three business days in advance of hearing.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.14(17A,89A) Disqualification.

69.14(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.

69.14(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 that 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 board functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrule 69.25(7).

69.14(3) In a situation where a presiding officer or other person knows of information that 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.

69.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 69.14(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

69.14(5) 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.

69.14(6) 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 875—69.26(17A,89A) and seek a stay under rule 875—69.30(17A,89A).

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.15(17A,89A) Consolidation and severance.

69.15(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 party to those proceedings.

69.15(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.16(17A,89A) Discovery.

69.16(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 are as provided in the Iowa Rules of Civil Procedure.

69.16(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. Motions in regard to discovery are 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.17(17A,89A) Subpoenas in a contested case. Pursuant to Iowa Code section 17A.13(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 that 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.

69.17(1) Upon the written request of a party, the presiding officer shall issue a subpoena to compel the attendance of witnesses or to obtain evidence that 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.

69.17(2) A request for a subpoena shall include the following information, as applicable:

- 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 will 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.

69.17(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 presiding officer;
- j. The date of issuance;
- k. A return of service attached to the subpoena.

69.17(4) The presiding officer shall mail or otherwise provide 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.

69.17(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.

69.17(6) Upon receipt of a timely motion to quash or modify a subpoena, the board chairperson 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.

69.17(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, 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.

69.17(8) If the person contesting the subpoena is not the party whose appeal 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 party whose appeal 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.18(17A,89A) Motions.

69.18(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.

69.18(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.

69.18(3) The presiding officer may schedule oral argument on any motion.

69.18(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.

69.18(5) Motions for summary judgment shall comply with the requirements of the Iowa Rules of Civil Procedure and are subject to disposition according to its requirements 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 are 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 875—69.29(89A) and appeal pursuant to subrule 69.27(3).

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.19(17A,89A) 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 any party. All settlements are subject to approval by a majority of the board. No settlement shall be presented to the board for approval except in final, written form executed by the parties. If the board fails to approve the settlement, the settlement will be of no force or effect to either party.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.20(17A,89A) Prehearing conference.

69.20(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.

69.20(2) Each party brings 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 that 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.

69.20(3) In addition to the requirements of subrule 69.20(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.

69.20(4) Prehearing conferences will be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.21(17A,89A) Continuances. Unless otherwise provided, applications for continuances are made to the presiding officer.

69.21(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.

69.21(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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.22(17A,89A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing. Unless otherwise provided, a withdrawal is with prejudice.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.23(17A,89A) Hearing procedures.

69.23(1) The presiding officer has the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections.

69.23(2) All objections shall be timely made and stated on the record.

69.23(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.

69.23(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.

69.23(5) The presiding officer maintains the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

69.23(6) Witnesses may be sequestered during the hearing.

69.23(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer will give an opening statement briefly describing the nature of the proceedings.

b. The parties will be given an opportunity to present opening statements.

c. The parties will present their cases in the sequence determined by the presiding officer.

d. Each witness will 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.

69.23(8) The presiding officer has the right to question a witness. Examination of witnesses by the presiding officer is subject to properly raised objections.

69.23(9) The hearing will be open to the public, except as otherwise provided by law.

69.23(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 board for five years after the resolution of the case.

69.23(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 continuance 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 69.27(3). A motion to vacate must state all facts relied upon by the moving party that establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact must be substantiated by at least one attached, sworn affidavit of a person with personal knowledge.

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 are granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties 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 has the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

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 will 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.24(17A,89A) Evidence.

69.24(1) The presiding officer rules on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

69.24(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

69.24(3) Evidence in the proceeding shall be confined to the contested issues as identified in the notice of hearing.

69.24(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.

69.24(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.

69.24(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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.25(17A,89A) Ex parte communication.

69.25(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, 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.

69.25(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.

69.25(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

69.25(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.

69.25(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.

69.25(6) 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.

a. If the presiding officer determines that disqualification is warranted, the following shall be submitted for inclusion in the record under seal by protective order:

- (1) A copy of any prohibited written communication,
- (2) All written responses to the communication,
- (3) A written summary stating the substance of any prohibited oral or other communication not available in written form and all responses made, and
- (4) The identity of each person from whom the presiding officer received a prohibited ex parte communication; 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.

69.25(7) 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.

69.25(8) 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.26(17A,89A) Interlocutory appeals.

69.26(1) Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge. In determining whether to do so, the board 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 the interlocutory order at the time of the issuance of a final decision would provide an adequate remedy.

69.26(2) Any request for interlocutory review under this rule must be filed within 14 days of issuance of the challenged order, but no later than the date for compliance with the order or the date of hearing, whichever is earlier.

69.26(3) This rule does not apply to the ruling of an administrative law judge after hearing on a motion to quash or modify a subpoena. The procedures for challenging such a ruling are set forth in subrule 69.17(7).

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.27(17A,89A) Decisions.

69.27(1) *Proposed decision.* Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. A proposed decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

69.27(2) *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. A copy of the final decision and order shall immediately be sent by certified mail to the appellant's last-known post office address or may be served as in the manner of original notices. Copies shall be mailed by interoffice mail or first-class mail to the counsel of record.

69.27(3) *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, 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 board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

g. Record. The record on appeal or review will be the entire record made before the hearing panel or administrative law judge.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.28(17A,89A) Contested cases with no factual disputes. 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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.29(17A,89A) Applications for rehearing.

69.29(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

69.29(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.

69.29(3) Time of filing. The application shall be filed with the board within 20 days after issuance of the final decision.

69.29(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.

69.29(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.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.30(17A,89A) Stays of board actions.

69.30(1) When available.

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

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

69.30(2) *When granted.* In determining whether to grant a stay, the presiding officer or board shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

69.30(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

875—69.31(17A,89A) Judicial review. Judicial review of the board’s decision may be sought in accordance with the terms of Iowa Code chapter 17A.

[ARC 8772C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapters 17A and 89A.

[Filed 6/16/06, Notice 5/10/06—published 7/5/06, effective 8/9/06]

[Filed ARC 8621B (Notice ARC 8322B, IAB 12/2/09), IAB 3/24/10, effective 4/28/10]

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[Filed ARC 3856C (Notice ARC 3727C, IAB 4/11/18), IAB 6/20/18, effective 8/1/18]

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[Filed ARC 8772C (Notice ARC 8321C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 70
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
OF THE ELEVATOR SAFETY BOARD
Rescinded **ARC 8832C**, IAB 1/22/25, effective 2/26/25

CHAPTER 71
ADMINISTRATION OF THE CONVEYANCE SAFETY PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—71.1(89A) Definitions. The definitions contained in this rule apply to 875—Chapters 71, 72, and 73.

“*Acceptance checklist*” means a checklist available on the website of the department that includes a list of major systems and components of conveyances.

“*AECO*” means an elevator/escalator certification organization accredited pursuant to ASME A17.7.

“*Approved*” means approved by the department.

“*CCD*” means code compliance documentation as described in ASME A17.7, Section 2.10.

“*CEI*” means a person who is a certified elevator inspector or certified elevator inspector supervisor and who received the certification from a certifying organization that holds a valid document of accreditation issued by an accreditation body in accordance with ANSI/ISO/IEC 17024.

“*Center of the elevator path*” means a vertical line through the center point of an elevator car top beginning two feet below the lower landing and ending ten feet above the highest landing of an elevator.

“*Control*” means the system governing the starting, stopping, direction of motion, acceleration, speed and deceleration of the moving member.

“*Conveyance*” means any elevator, escalator, material lift elevator installed on or after August 10, 2016, dumbwaiter, wind tower lift, CPH, or other equipment governed by Iowa Code chapter 89A.

“*CPH*” means a construction personnel hoist.

“*CPH jump*” means the addition or removal of mast or tower allowing a change in the hoist service elevation of a CPH.

“*Department*” means the department of inspections, appeals, and licensing.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Elevator*” means a hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction and that serves two or more floors of a building or structure. “Elevator” does not include a CPH.

“*Elevator mechanic*” means a person who meets the standard for “elevator personnel” found in ASME A17.1.

“*Hoistway-unit system*” means a series of hoistway-door interlocks, hoistway-door electric contacts or hoistway-door combination mechanical locks and electric contacts, or a combination thereof, the function of which is to prevent operation of the driving machine by the normal operating device unless all hoistway doors are in the closed position and, if required, locked.

“*Imminent danger*” means one or more conditions or practices exist that are reasonably expected to cause death or serious physical harm immediately.

“*Seal off*” means to place a conveyance controller in the off position and attach a wire seal with a tag warning that the conveyance must be rendered dormant or not used pending repairs.

“*Serious danger*” means one or more conditions or practices exist that create a substantial probability that death or serious physical harm could result.

“*Waiver*” means a waiver pursuant to Iowa Code section 17A.9A or an exception or variance pursuant to Iowa Code section 89A.11.

“*Wind tower lift*” means a conveyance designed and utilized solely for movement of trained and authorized people and small loads in wind towers built for the production of electricity.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.2(89A) Registration of conveyances. The owner or authorized agent of each operable conveyance not previously registered shall register the conveyance. An application to install a new conveyance constitutes registration. All registrations are submitted to the director on forms available from the department and include all information requested by the director.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.3(89A) State identification number. The director will assign an identification number to each conveyance that shall be stamped on a metal tag permanently attached to the controller, to the electrical disconnecting switch, or in a wind tower lift cage.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.4(89A) Responsibility for obtaining permits. The procuring of all permits and the payment of all fees required by this chapter are the responsibility of the owner. Failure to obtain the appropriate permit prior to installation, alteration or operation may, at the discretion of the director, result in a referral to the attorney general for prosecution of criminal penalties.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.5(89A) Installation permit requirements.

71.5(1) Installation will not begin until an installation permit has been issued by the department. A separate installation permit will be issued for each conveyance, except that a single installation permit will cover all identical wind tower lifts installed as the result of one construction contract in identical wind towers in a single wind farm.

71.5(2) Application for an installation permit shall be accompanied by the fee, in the format required by the director, and include the following, as applicable:

- a. Sectional plan of car and hoistway.
- b. Sectional plan of machine room.
- c. Sectional elevation of hoistway and machine room including the pit, bottom and top clearance of car and counterweights.
- d. Size and weight of rails and guide rail bracket spacing.
- e. The estimated maximum vertical forces on the guide rails on application of the safety device.
- f. In the case of freight elevators for class B or class C loading, the horizontal forces on the guide rail faces during loading and unloading and the estimated maximum horizontal forces in a post-wise direction on the guide rail faces on the application of the safety device.
- g. The size and weight per foot of any rail reinforcements where rail reinforcements are provided.
- h. Job specifications.
- i. For a conveyance covered by ASME A17.7, a complete copy of the CCD with attachments and a complete copy of the Certificate of Conformance with attachments as described by ASME A17.7, Appendix I, Section 4.5.
- j. For a CPH, the number of CPH jumps planned, the planned dates for each CPH jump, and the change in the number of floors anticipated with each CPH jump.

71.5(3) A CPH installation permit issued in response to an application submitted in full compliance with this subrule permits each planned CPH jump. Each CPH jump will be considered an alteration. The fee for a CPH installation permit is the total of the CPH installation permit fee and the CPH alteration permit fee.

71.5(4) Issuance of an installation permit is not a waiver of any requirement of law.

71.5(5) The installation permit or a copy of the installation permit shall be conspicuously posted at the worksite. All the wind towers covered by a single installation permit are a single worksite, and posting one copy of the installation permit at the construction project office is sufficient compliance with this subrule.

71.5(6) Except as described here, the installation permit expires upon the earlier of the completion of the installation as described in the permit application or one year after issuance.

a. For a CPH, the installation permit expires upon completion of the last CPH jump.

b. For any conveyance, during the tenth month after issuance, and upon submission to the director of sufficient justification, the fee established by this chapter, and other required information, an extension may be granted at the discretion of the director.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.6(89A) Construction permits—requirements. A construction permit authorizes the temporary, limited use of an elevator for purposes relating to construction or demolition.

71.6(1) Use of the elevator will not begin until a construction permit has been issued by the department.

71.6(2) Application for a construction permit will be in the format required by the director and must include all the information requested by the director and the fee specified by this chapter.

71.6(3) Upon submission of the completed application and fee, a state inspector will be scheduled to inspect the elevator. Construction permits will be issued only if the following criteria are met:

a. The elevator has been successfully tested pursuant to the requirements of ASME A17.1, Section 8.11.5.13; and

b. The applicable requirements of ASME A17.1, Section 5.10, are met.

71.6(4) The construction permit or a copy of the construction permit will be posted conspicuously in a protective sleeve in the elevator car.

71.6(5) The construction permit will expire 120 days after issuance. However, between 90 and 110 days after issuance and upon submission to the director of sufficient justification, the fee established by this chapter, and other required information, an extension of up to 90 days may be granted at the discretion of the director.

71.6(6) Elevators with a construction permit but without an operating permit will not be accessible to the general public.

71.6(7) Failure to comply with these provisions may result in the revocation of the construction permit.

71.6(8) An operating permit will not be issued before construction and an acceptance inspection are complete.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.7(89A) Operating permits—requirements.

71.7(1) Operation of equipment covered by this chapter without a current operating permit is prohibited, except for construction permits, controller upgrade permits, and temporary removals from service, all defined in this chapter. If operation of a conveyance is prohibited under this rule, the director may post notice on the conveyance that it is not to be used. The conveyance may be returned to service only after an operating permit for the conveyance has been issued or reissued.

71.7(2) Operating permits will not be issued prior to successful completion of an inspection and payment of all permit and inspection fees owed to the department.

71.7(3) Current operating permits or copies of current operating permits will be conspicuously displayed as follows:

a. The operating permit for an elevator or CPH will be posted in the car.

b. The operating permit for an escalator, dumbwaiter, wind tower lift, moving walk, or wheelchair lift will be posted on or near the subject conveyance.

71.7(4) An operating permit expires 60 days after the first permit renewal inspection following the issuance of the operating permit, unless an earlier date is dictated by this rule.

71.7(5) An operating permit is automatically suspended when an alteration begins. The operating permit automatically resumes when the elevator passes an inspection.

71.7(6) An operating permit is automatically terminated when an imminent danger notice is posted on the conveyance.

71.7(7) Notwithstanding other provisions of this rule, at the discretion of the director, a temporary operating permit may be issued for up to 30 days provided the inspection has been completed and no code violations were identified. Issuance of a temporary operating permit does not extend the expiration date of the conveyance's operating permit.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.8(89A) Controller upgrade permits—requirements. A controller upgrade permit may be issued to allow operation of an elevator while work to upgrade controls requires deactivation of the Phase I recall initiated by smoke sensing devices. Each elevator to be altered requires a separate controller upgrade permit. The duration of a controller upgrade permit will not exceed 90 days. Each elevator in the group will pass inspection prior to being placed back into service.

71.8(1) A controller upgrade permit will not be issued unless each of the following conditions is met:

- a. Two or more elevators share a lobby at the level of the recall floor.
- b. The project includes the installation of new elevator controllers in all of the elevators in the group.
- c. Phase I fire recall initiated by a key-operated switch and all other controls will be properly functioning for each elevator available for use.
- d. There is a current alteration permit for the project.
- e. A complete application for the controller upgrade permit and the fee established by this chapter have been submitted and accepted.

71.8(2) A controller upgrade permit does not waive or excuse compliance with the requirements of any other governmental entity, including the department of public safety.

71.8(3) Upon the submission to the director of sufficient justification, the fee established by this chapter, and other required information, an extension of the permit for up to 60 days may be granted.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.9(89A) Alteration permits—requirements.

71.9(1) Alteration will not begin until an alteration permit has been issued by the department.

71.9(2) Application for an alteration permit will be in the format required by the director and will include scope of work, drawings and specifications of all planned changes and the fee.

71.9(3) Issuance of an alteration permit is not a waiver of any requirement of law.

71.9(4) The alteration permit or a copy of the alteration permit will be conspicuously posted at the worksite.

71.9(5) If a complete installation permit application was submitted for a CPH pursuant to subrule 71.5(3), at least seven days' advance notice of each CPH jump will be provided to the director.

71.9(6) The alteration permit expires upon the earlier of the completion of the alteration as described in the permit application or one year after issuance. However, during the tenth month after issuance and upon submission to the director of the fee set forth in this chapter, sufficient justification, and other required information, the director may grant an extension of the alteration permit.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.10(89A) Alteration requirements.

71.10(1) Alterations or changes will comply with applicable rules.

71.10(2) A conveyance that is relocated will be brought into compliance with all codes that are applicable at the time of relocation.

71.10(3) Alterations of conveyances other than escalators and elevators require that the entire conveyance be brought into compliance with the current code.

71.10(4) Work required by ASME A17.3 (2011) qualifies as normal maintenance and does not require an alteration permit except for work performed to comply with ASME A17.3 (2011) 2.3.3, 3.4.4.1(a), 3.4.4.2, 3.5.3, 3.5.5(a) and (b), 3.5.7, 3.6.1, 3.6.2, 3.8.1(a), 3.8.3(a), 3.10.1, 3.10.4(b) through (g), 3.10.4(i) through (k), 3.10.4(m), 3.10.4(r), 3.10.4(w), 3.10.7, 3.10.9, 3.10.10, 4.4.2, 4.4.3, and 4.7.3.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.11(89A) Inspection requirements. Pursuant to Iowa Code section 89A.12, inspections by the director will be permitted at reasonable times with or without prior notice.

71.11(1) *Scope of inspections.*

a. *Comprehensive.* Periodic inspections will be comprehensive. Elevators being transferred from construction permits to operating permits, previously dormant conveyances being returned to service, relocated conveyances, and new conveyances will be inspected in their entirety prior to operation.

b. *Limited.* An alteration inspection is normally limited to the altered components. If the inspector notices a safety hazard in plain view during an inspection after alteration, or if the periodic inspection is due, the entire conveyance will be inspected.

71.11(2) *When inspections will occur.* When the timing of two different types of inspection on a single conveyance coincide, a state inspector may perform both inspections in one visit.

a. *Periodic inspections.*

(1) Each construction elevator and CPH will be inspected at intervals not to exceed three months. All other periodic conveyance inspections by state inspectors are conducted annually unless the director determines resources do not allow annual inspections. If the director determines quarterly inspections of construction elevators and CPHs and annual inspections of other state-inspected conveyances are not feasible due to insufficient resources, the director will determine the inspection schedule.

(2) Conveyance inspections by special inspectors will be conducted at least annually.

(3) The inspector will arrange to perform the periodic inspection of a broadcast tower elevator when the maintenance company is on site to perform the periodic tests. If the inspection is to be performed by employees of the director, the inspection will occur during the department's normal business hours, unless otherwise agreed to by the director.

b. Acceptance inspections. A CPH will be inspected pursuant to the schedule in ANSI A10.4 – 2007, Chapter 26. For all other conveyances, an acceptance inspection will occur:

(1) After each relocation,

(2) After each alteration,

(3) For a new installation, not less than two business days after a completed acceptance checklist is submitted by the conveyance installation company,

(4) Before an elevator subject to a construction permit receives an operating permit, and

(5) Before a previously dormant conveyance is returned to service.

c. Other inspections. Inspections may be made when the director reasonably believes that a conveyance is not in compliance with the rules. Accidents, complaints, or requests for consultative inspections may result in inspections by the director.

71.11(3) Who may perform inspections.

a. The director will inspect altered conveyances, construction elevators, CPHs, previously dormant conveyances being returned to service, relocated conveyances, and new conveyances.

b. Except as noted in 71.11(3)“c,” annual inspections may be performed by state inspectors or special inspectors authorized by the director.

c. An inspection report by a special inspector will not be accepted as the required, annual inspection if the conveyance is under contract for maintenance, installation or alteration by the special inspector or the special inspector's employer, or if the property is owned or leased by the special inspector or the special inspector's employer.

71.11(4) Inspection standards. Inspections will be performed in accordance with applicable safety codes or documents such as:

a. CCD;

b. ASME A17.1, Sections 8.10 and 8.11, except Section 8.11.1.1;

c. ANSI A10.4-2007; or

d. ASME A18.1.

71.11(5) Inspection reports.

a. All inspectors will file inspection reports on forms approved by the director within 30 days from the date of inspection and will provide owners of conveyances with copies of completed inspection reports. The inspection report must separately list each unsafe condition and the applicable, specific code citation. Up to 30 days will be allowed for correction of the unsafe conditions.

b. The owner may file a petition for reconsideration of an inspection report. The timely and proper filing of a petition for reconsideration extends the deadline for correction of the hazards that are subject to the petition for reconsideration.

71.11(6) Extension of time. The owner may petition the director for up to 60 additional days to make the necessary corrections. The time frames may be adjusted by the director as necessary to accommodate an extension of time.

71.11(7) Correction of unsafe conditions. In the absence of a determination on reconsideration or appeal that correction of hazards is not required, all unsafe conditions identified in the inspection report will be corrected. The director will verify correction of all unsafe conditions identified in the inspection report by sending a state inspector to reinspect the conveyance for the applicable fee, or by reviewing

appropriate documentation such as a photograph, invoice, other verifiable document, or subsequent inspection report. The time frames set forth in this subrule may be accelerated at the request of the owner.

a. Promptly upon receipt of an inspection report listing unsafe conditions, the director will send to the owner and the special inspector, if any, an abatement order. A copy of the inspection report will be attached to the abatement order. Unless a special inspector conducted the inspection, the order may specify a period that ends no more than 45 days after the inspection during which the owner may submit written evidence that the unsafe conditions have been corrected. The abatement order will:

- (1) Identify the equipment.
- (2) Demand that the unsafe conditions be corrected within the period set forth in the inspection report.
- (3) Set forth the consequences of failure to comply.

b. After the period specified on the inspection report has passed, the director may cause a state inspector to verify correction of all unsafe conditions. If reinspection reveals no significant progress toward correcting the unsafe conditions, or the remaining unsafe conditions create significant safety concerns, the director may serve a notice of intent to suspend, deny or revoke the operating permit.

If there is a serious danger, the director may seal off the conveyance and post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance prior to completion of the required repairs may result in additional legal proceedings. The conveyance may be returned to service only after the serious danger has been corrected and the conveyance has passed a comprehensive inspection.

c. The director may issue an operating permit after receipt of the appropriate fee and verification that each unsafe condition identified in the inspection report has been corrected.

d. If written proof of correction was requested in the abatement order, but adequate proof was not received by the deadline set forth in the abatement order, the director may send a second abatement order or cause a state inspector to inspect the conveyance. If the director elects to send a second abatement order, it will notify the owner that, if written proof of abatement is not received within 20 days, a state inspector may be sent to the site. Copies of the abatement order and the inspection report will be attached to the second abatement order.

e. If a special inspector conducted the inspection, more than 45 days have passed since the deadline for correction of hazards, and an inspection report indicating the hazards are corrected has not been filed, the director may:

- (1) Contact the special inspector,
- (2) Send a second abatement order to the owner with copies of the inspection report and first abatement order, or

- (3) Send a state inspector to inspect the conveyance. If there is a serious danger, the director may seal off the conveyance and post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance prior to completion of the required repairs may result in additional legal proceedings. The conveyance may be returned to service only after the serious danger has been corrected and the conveyance has passed a comprehensive inspection.

f. If an inspection as described in paragraph 71.11(7)“d” or “e” reveals no significant progress toward correcting the unsafe conditions, and the remaining unsafe conditions create no significant safety concerns, the director may extend the time for abatement of the unsafe conditions an additional ten days or may serve a notice of intent to suspend, deny or revoke the operating permit. The director may also post a notice prohibiting use of the conveyance pending abatement of the unsafe conditions listed in the inspection report.

g. If an abatement order was provided and a conveyance is not in use and the owner does not intend to use the conveyance, repair the conveyance, or make the conveyance dormant, the director may seal off the conveyance.

71.11(8) Imminent danger. If the director determines that continued operation of a conveyance pending correction of unsafe conditions creates an imminent danger, the director may seal off the conveyance and post notice on the conveyance that it is not to be used pending repairs. Use of a conveyance contrary to posted notice by the director may result in additional legal proceedings pursuant to Iowa Code section 89A.10(3) or 89A.18. The conveyance may be returned to service only after the imminent danger has been corrected and the conveyance has passed a comprehensive inspection.

71.11(9) *Interference prohibited.* No person shall interfere with, delay or impede an inspector employed by the state during an inspection.

71.11(10) *Escalator inspections.* The owner will arrange for an escalator mechanic to be on site to assist with the inspection. The inspector will work with the owner to arrange an inspection time.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.12(89A,252J,272D) Special inspector commissions.

71.12(1) *Definition.* As used in this rule, “certificate of noncompliance” means:

- a. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J; or
- b. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

71.12(2) *Qualifications.*

- a. Each applicant will possess a high school diploma or general equivalency degree.
- b. Each applicant will have at least three years of full-time work experience in the construction, installation, repair or inspection of conveyances.
- c. Each applicant will be a CEI.
- d. Each applicant will satisfactorily pass the department’s examination on Iowa procedures, Iowa policies, and all safety standards adopted by reference.
- e. Each applicant will submit proof of insurance coverage insuring the applicant against liability for injury or death for any act or omission on the part of the applicant. The insurance policy will be in an amount of not less than \$1,000,000 for bodily injury to or death of one person in any one accident, and in an amount of not less than \$5,000,000 for bodily injury to or death of two or more persons in any one accident, and in an amount of not less than \$100,000 for damage to or destruction of property in any one accident. The insurance coverage of the special inspector’s employer complies with this requirement if the coverage provides equivalent coverage for each special inspector.

71.12(3) *Application.* An applicant for a commission will complete, sign, and submit to the department the form provided by the department with the required fee. The applicant will include with the application proof that the applicant is a CEI.

71.12(4) *Expiration.* The commission expires when the commission is suspended or revoked by the director or one year from issuance, whichever occurs earlier.

71.12(5) *Changes.* The special inspector shall notify the department at the time any of the information on the form or attachments changes.

71.12(6) *Denials.* The director may refuse to issue or renew a special inspector’s commission for failure of the applicant to complete an application package, if the applicant is not a CEI, or for any reason listed in subrules 71.12(8) through 71.12(10).

71.12(7) *Investigations.* The director may investigate for any reasonable cause related to special inspectors or special inspector applicants. The director may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice at the times and in the places the director directs. The director may notify the organization that certified the special inspector as a CEI of the findings of an investigation.

71.12(8) *Reasons for probation.* The director may issue a notice of commission probation when an investigation reasonably reveals that the special inspector filed inaccurate reports.

71.12(9) *Reasons for suspension.* The director may issue a notice of commission suspension when an investigation reasonably reveals any of the following:

- a. The special inspector failed to submit and report inspections on a timely basis;
- b. The special inspector abused the special inspector’s authority;
- c. The special inspector misrepresented self as a state inspector or a state employee;
- d. The special inspector used commission authority for inappropriate personal gain;
- e. The special inspector failed to follow the department’s rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f. The special inspector committed numerous violations;

- g. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- h. The special inspector is no longer a CEI;
- i. The department received a certificate of noncompliance; or
- j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed herein.

71.12(10) *Reasons for revocation.* The director may issue a notice of revocation of a special inspector's commission when an investigation reveals any of the following:

- a. The special inspector filed a misleading, false or fraudulent report;
- b. The special inspector failed to perform a required inspection;
- c. The special inspector failed to file a report or filed a report that was not in accordance with the provisions of applicable standards;
- d. The special inspector committed repeated violations;
- e. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- f. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform acts or omissions listed herein;
- g. The special inspector is no longer a CEI; or
- h. The department received a certificate of noncompliance.

71.12(11) *Procedures.* The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J or 272D shall apply.

- a. *Notice of actions.* The director will serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A.
- b. *Emergency suspension.* If the director finds that the public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector's commission may be summarily suspended.
- c. *Probation period.* A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.
- d. *Suspension period.* A special inspector's commission may be suspended up to five years for each incident causing a suspension.
- e. *Revocation period.* A special inspector's commission that has been revoked will not be reinstated for five years.
- f. *Concurrent actions.* Multiple actions may proceed at the same time against any special inspector.
- g. *Revoked or suspended commissions.* Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall surrender the special inspector's commission card to the director. The director may notify the special inspector's employer and the organization that certified the special inspector as a CEI of a revocation or suspension.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.13(89A) Safety tests. Only safety test reports submitted on approved forms from elevator mechanics who are employed by authorized companies meet the requirements of this rule. The alternative test methods set forth at ASME A17.1, Rule 8.6.11.10, are not allowed as a substitute for a full-load safety test.

71.13(1) *When safety tests will be performed.*

- a. Safety tests are performed on new and altered installations before they are placed in service.
- b. Category 1 safety tests of wind turbine tower elevators are conducted after two years of operation, and category 5 safety tests of wind turbine tower elevators are performed after ten years of operation. Safety tests shall be made on all other conveyances pursuant to the schedules and procedures set forth in:
 - (1) The maintenance control plan for wind tower lifts exempted from ASME A17.1;
 - (2) The CCD for conveyances covered by ASME A17.7-2007/CSA B44-07;

(3) The columns pertaining to “periodic tests” in Table N-1 in the edition of ASME A17.1 currently adopted for new conveyances;

(4) ASME A18.1(2003), Part 10; or

(5) ANSI A10.4-2007, Section 26.4.

71.13(2) *How safety tests will be reported.* Within 30 days after completion of a safety test, the elevator mechanic shall file with the director a report on an approved form and provide a copy of the form to the owner and to the witness, if applicable.

71.13(3) *How safety tests will be recorded.* The elevator mechanic shall attach a tag showing the date of the test, the elevator mechanic’s name, and the type of test performed.

a. On electric traction elevators, the elevator mechanic attaches the tag to the safety-releasing carrier.

b. On hydraulic elevators, the elevator mechanic attaches the tag to the disconnecting switch or the controller.

c. On wheelchair lifts, the elevator mechanic attaches the tag to the disconnecting switch.

d. On other conveyances covered by these rules, the director witnessing the acceptance safety test will indicate the proper location of the tag. Subsequent test tags are attached in the same location.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.14(89A) Authorized companies—requirements.

71.14(1) Each year, authorized companies will train their elevator mechanics who perform safety tests on safety test procedures.

71.14(2) For each conveyance owned by an authorized company, the owner will obtain the services of a CEI who is not employed by the authorized company or an inspector employed by the state to witness the safety test.

71.14(3) To become authorized to perform safety tests, a company will submit a copy of its procedures for performing safety tests. The director will review the procedures for adequacy and will request modifications to the procedures or grant or deny the authorization.

71.14(4) Every five years or within six months after the board adopts a new edition of ASME, whichever is earlier, authorized companies will submit revised safety test procedures for renewal of authorization. The director will review the procedures for adequacy and will request modifications to the procedures or grant or deny the authorization.

71.14(5) Investigations. Investigations will take place at the times and in the places the director directs. The director may investigate for any reasonable cause. The director may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

71.14(6) Suspension. If the director determines that a falsified safety test report was submitted by an elevator mechanic, the director will suspend the authorization of the elevator mechanic’s employer for six months. During the suspension, all safety tests performed by any employee of the authorized company will be witnessed by a state inspector or a CEI who is not employed by the suspended authorized company.

71.14(7) Suspension procedures.

a. The director will notify an authorized company of its suspension by certified mail or by other service as permitted by Iowa Code chapter 17A.

b. The authorized company will have 20 days to file a written notice of contest with the director. If the authorized company does not file a written notice of contest in a timely manner, the suspension will automatically be effective. If the authorized company does file a written notice of contest in a timely manner, department hearing procedures govern.

c. If the director finds, pursuant to Iowa Code section 17A.18A, that public health, safety or welfare imperatively requires emergency action, the authorization may be summarily suspended.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.15(89A) Fees. Except as noted in this rule, all fees are nonrefundable and due in advance.

71.15(1) *Operating permits.* The annual operating permit fee is \$75 per conveyance.

71.15(2) *Periodic inspections.* Fees shall be remitted to the department within 30 days of the date of inspection. The fees for periodic inspections are as follows:

a. Construction elevator: \$200.

- b. Wind tower lift: \$225.
- c. Hand-powered elevator: \$90.
- d. Television tower elevator: \$500.
- e. Handicapped restricted use elevator: \$100.
- f. Other hydraulic elevator: \$100.
- g. Other traction elevator: \$150.
- h. Escalator: \$150.
- i. Dumbwaiter: \$90.
- j. Wheelchair lift: \$90.
- k. CPH:
 - (1) Annual: \$500.
 - (2) Quarterly: \$200.
- l. Moving walk: \$150.

71.15(3) Installation permits. The fees in this subrule cover the initial print review, installation permit, initial inspection and first-year operating permit. Each print revision submitted to the department is subject to an additional fee of \$100. The fees for new installations are as follows:

- a. Wind tower lift: \$500.
- b. Material lift elevators: \$500.
- c. Other hydraulic elevators: \$750.
- d. Other traction elevators: \$1,000.
- e. Escalator: \$1,000.
- f. Dumbwaiter: \$500.
- g. Wheelchair lift: \$500.
- h. CPH: \$500.
- i. Moving walk: \$500.

71.15(4) Alteration permits.

a. Except as set forth below, the fee for any elevator alteration permit is \$500 and covers the initial print review, alteration permit, and initial inspection.

b. The fee for each CPH extension is \$150. The total fee required for all planned CPH extensions shall be submitted with the installation permit application.

c. The fee for an alteration permit is \$500 if the only alteration is the addition or replacement of an escalator skirt brush.

d. The fee for an initial print review, elevator alteration permit, and initial inspection is \$250 if both of the following conditions are met:

(1) The only changes covered by the elevator alteration permit application are required by ASME A17.3 (2011) as adopted in 875—Chapters 372 and 373; and

(2) The elevator alteration permit application is submitted before or no later than 120 days after the issuance of an inspection report describing ASME A17.3 requirements.

e. For all other conveyances, the fees for new installations shall apply to alterations.

71.15(5) Construction permits. The construction permit fee is \$200 per conveyance. This fee includes the fee for initial inspection.

71.15(6) Controller upgrade permits. The controller upgrade permit fee is \$250. This fee includes one inspection.

71.15(7) Consultative inspections Consultative inspections may be performed at the discretion of the director for \$125 per hour, including travel time, with a minimum charge of \$250.

71.15(8) Special inspector commission. The special inspector commission fee is \$60 annually.

71.15(9) Witness of safety tests. The fee for department employees to witness safety tests is \$125 per hour, including travel time, with a minimum charge of \$250.

71.15(10) Permit extensions. The fee to extend an installation permit, alteration permit, or construction permit is \$100.

71.15(11) Inspections outside of normal business hours. Inspections outside the normal business hours may be performed at the discretion of the director. If the owner or contractor requests an inspection

outside of normal business hours and the director agrees to the schedule, an additional fee will be charged. The additional fee will be calculated at a rate of \$200 per hour, including travel time, with a minimum charge of \$400.

71.15(12) Reinspections. The fees for reinspections are \$400 for television tower elevators and CPHs, \$200 for wind tower lifts, and \$300 for all other conveyances.

71.15(13) Inspection for temporary removal from service. The inspection fee for temporary removal from service is \$125 per hour, including travel time, with a minimum charge of \$250.

71.15(14) Fee waiver.

a. When a state inspector combines in one visit two different types of inspection on a single conveyance, the director may waive the lesser of the fees.

b. The fee for an alteration permit will be waived by the director if the only alterations covered by the permit application are required by 875—Chapter 372 or 373. The fee waiver set forth in this paragraph does not eliminate the requirement to pay for an acceptance inspection or for an operating permit.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.16(89A) Publications available for review. Standards, codes, and publications adopted by reference in these rules are available for review in the department office.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.17(89A) Accidents and injuries—requirements.

71.17(1) This rule applies to a conveyance in the event one of the following occurs:

- a.* A personal injury accident that requires the service of a physician;
- b.* A personal injury accident that causes disability exceeding one day; or
- c.* Damage that will require more than one hour of mechanic's time (excluding travel) to repair.

71.17(2) The owner will promptly notify the director if one of the events listed in subrule 71.19(1) occurs. Notification will be in writing and will include the state identification number, owner, and description of accident.

71.17(3) The removal of any part of the damaged conveyance or operating mechanism from the premises is forbidden until permission is granted by the director.

71.17(4) When an accident or injury involves the failure or destruction of any part of the conveyance or its operating mechanism, the use of the conveyance is forbidden until it has been inspected and approved by the director.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.18(89A) Temporary removal from service. The requirements for an annual inspection, annual inspection fee, safety test, operating permit, and operating permit fee will be temporarily suspended for up to three years for an elevator in an unoccupied building if the requirements of this rule are met.

71.18(1) All elevator doors in unoccupied buildings shall be closed and locked. Hydraulic elevators are parked at the bottom of the hoistway. Traction elevators are parked at the top of the hoistway.

71.18(2) Upon request by the owner of an elevator in an unoccupied building, the director will send an inspector who is a state employee to confirm that the building is unoccupied and that the car and doors of the elevator have been properly secured. If the conditions set forth in subrule "1" are met, the inspector shall apply to the elevator a seal and a red tag marked with the words "Do Not Operate."

71.18(3) One year after the inspection, the owner must file with the director written confirmation that the status of the elevator and building have not changed, and the owner must file again two years after the inspection. Failure to comply with this requirement will result in termination of the temporary suspension of the requirements for safety tests, inspections, and operating permits.

71.18(4) Prior to returning the elevator to service, and upon request of the owner, the director may allow the elevator to be operated for 30 days for the sole purpose of performing safety tests and maintenance.

71.18(5) The owner must notify the director at least two weeks before placing an elevator back into service and must arrange for an inspector who is a state employee to witness a safety test.

71.18(6) If at the end of three years the building is still unoccupied, suspension of the requirements for safety tests, inspections, and operating permits end without possibility of renewal.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

875—71.19(89A) Other regulations affecting elevators. No rule in 875—Chapters 71 through 73 shall be interpreted as creating a waiver from any otherwise applicable regulation or statute.

[ARC 8773C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapters 89A, 252J, and 272D.

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[Filed ARC 2603C (Notice ARC 2355C, IAB 1/6/16), IAB 7/6/16, effective 8/10/16]

[Filed ARC 2607C (Notice ARC 2422C, IAB 3/2/16), IAB 7/6/16, effective 8/10/16]

[Filed ARC 3742C (Notice ARC 3503C, IAB 12/20/17), IAB 4/11/18, effective 5/16/18]

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[Filed ARC 4212C (Notice ARC 4088C, IAB 10/24/18), IAB 1/2/19, effective 3/1/19]

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[Filed ARC 8773C (Notice ARC 8322C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 72
CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 72]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—72.1(89A) Purpose and scope. This chapter contains safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of conveyances installed on or after January 1, 1975. The rules of this chapter also apply to previously dormant conveyances that are being reactivated and to reinstalled or moved conveyances. As used in this rule, the word “installation” refers to the date on which a conveyance contractor enters into a contractual agreement pertaining to a conveyance.

72.1(1) For installations between January 1, 1975, and December 31, 1982, ANSI A17.1 means ANSI A17.1 (1971).

72.1(2) For installations between January 1, 1983, and December 31, 1992:

- a. ANSI A17.1 means ANSI A17.1 (1981); and
- b. ANSI A117.1 means ANSI A117.1 (1980).

72.1(3) For installations between January 1, 1993, and December 31, 2000:

- a. ASME A17.1 means ASME A17.1 (1990) and in addition means the following:
 - (1) ASME A17.1b (1992), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and
 - (2) ASME A17.1b (1992), Rule 110.11h that is referenced by Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

- b. ANSI/NFPA 70 means ANSI/NFPA 70 (1990); and
- c. ANSI A117.1 means ANSI A117.1 (1980).

72.1(4) For installations between January 1, 2001, and December 31, 2003:

- a. ASME A17.1 means ASME A17.1 (1996 through the 1999 addenda);
- b. ASME A18.1 means ASME A18.1 (1999), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 means ANSI A117.1 (1998); and
- d. ANSI/NFPA 70 means ANSI/NFPA 70 (1999).

72.1(5) For installations between January 1, 2004, and April 4, 2006:

- a. ASME A17.1 means ASME A17.1 (2000 through the 2003 addenda);
- b. ASME A18.1 means ASME A18.1 (1999 through the 2001 addenda), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 means ANSI A117.1 (1998); and
- d. ANSI/NFPA 70 means ANSI/NFPA 70 (2002).

72.1(6) For installations between April 5, 2006, and July 22, 2008:

- a. ASME A17.1 means ASME A17.1-2004, A17.1a-2005 and A17.1S-2005;
- b. ASME A18.1 means ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 means ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- d. ANSI/NFPA 70 means ANSI/NFPA 70 (2005).

72.1(7) For installations between July 23, 2008, and July 18, 2012:

- a. ASME A17.1 means ASME A17.1-2007/CSA B44-07;
- b. ASME A17.7 means ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 means ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 means ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 means ANSI/NFPA 70 (2005).

72.1(8) For installations between July 19, 2012, and January 30, 2014:

- a. ASME A17.1 means ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b. ASME A17.7 means ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 means ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 means ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

e. ANSI/NFPA 70 means ANSI/NFPA 70 (2008).

72.1(9) For installations between January 31, 2014, and January 14, 2015:

- a.* ASME A17.1 means ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b.* ASME A17.7 means ASME A17.7-2007/CSA B44-07;
- c.* ASME A18.1 means ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d.* ANSI A117.1 means ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e.* ANSI/NFPA 70 means ANSI/NFPA 70 (2008).

72.1(10) For installations between January 15, 2015, and May 16, 2018:

- a.* ASME A17.1 means ASME A17.1-2013/CSA B44-13;
- b.* ASME A17.7 means ASME A17.7-2007/CSA B44-07;
- c.* ASME A18.1 means ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d.* ANSI A117.1 means ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e.* ANSI/NFPA 70 means ANSI/NFPA 70 (2011).

72.1(11) For installations between May 17, 2018, and May 31, 2021:

- a.* ASME A17.1 means ASME A17.1-2016/CSA B44-16;
- b.* ASME A17.7 means ASME A17.7-2012/CSA B44.7-12;
- c.* ASME A17.8 means ASME A17.8-2016/CSA B44.8-16;
- d.* ASME A18.1 means ASME A18.1 (2014), except Chapters 4, 5, 6, and 7;
- e.* ANSI A117.1 means ANSI A117.1 (2017), except for requirement 407.4.7.1.2; and
- f.* ANSI/NFPA 70 means ANSI/NFPA 70 (2017).

72.1(12) For installations on or after June 1, 2021:

- a.* ASME A17.1 means ASME A17.1-2019/CSA B44-19, except that,
 - (1) Approaching object detection as described in 2.13.5 is optional; and
 - (2) ASME A17.1-2016/CSA B44-16, requirement 2.13.5, applies if approaching object detection is not installed;
- b.* ASME A17.7 means ASME A17.7-2012/CSA B44.7-12;
- c.* ASME A17.8 means ASME A17.8-2016/CSA B44.8-16;
- d.* ASME A18.1 means ASME A18.1 (2014), except Chapters 4, 5, 6, and 7;
- e.* ANSI A117.1 means ANSI A117.1 (2017), except for requirement 407.4.7.1.2; and
- f.* ANSI/NFPA 70 means ANSI/NFPA 70 (2017).

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.2(89A) Definitions. The definitions contained in ASME A17.1, ASME A18.1, and ANSI A117.1 and any other standard adopted herein by reference are applicable as used in this chapter to the extent that the definitions do not conflict with the definitions contained in Iowa Code chapter 89A and these rules. However, the definition of “building code” in ASME A17.1 is modified to exclude the Building Construction and Safety Code (NFPA 5000) and the National Building Code of Canada (NBCC) for any installation after March 1, 2008.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.3(89A) Accommodating the physically disabled. All passenger elevators installed between January 1, 1975, and December 31, 1982, that are available and intended for public use shall be usable by the physically disabled. All passenger elevators will have control buttons with identifying features for the benefit of the blind and will allow for wheelchair traffic. All passenger elevators and wheelchair lifts installed on or after January 1, 1983, that are accessible to the general public shall comply with Accessible and Usable Buildings and Facilities ANSI A117.1, sections 407 and 408.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.4(89A) Electric elevators. The provisions contained in ASME A17.1, Part 2, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.5(89A) Hydraulic elevators. The provisions contained in ASME A17.1, Part 3, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.6(89A) Power sidewalk elevators. The provisions contained in ASME A17.1, section 5.5, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.7(89A) Performance-based safety code. Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.8(89A) Hand and power dumbwaiters. The provisions contained in ASME A17.1, sections 7.1, 7.2, 7.3, and 7.8, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.9(89A) Escalators and moving walks. The provisions contained in ASME A17.1, Part 6, are adopted by reference, except for those portions that allow an operating or safety device to reset automatically.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.10(89A) General requirements.

72.10(1) The provisions contained in ASME A17.1, Part 8, are adopted by reference unless specifically excluded herein.

72.10(2) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2021.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision remains in effect.

b. A17.3 (2011) Part X applies to handicapped restricted use elevators without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and are not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and does not require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe is adequate compliance.

e. An elevator that was legally installed with guide rails made of materials other than steel will not be required to replace the guide rails due to the adoption of A17.3 (2011).

72.10(3) Permanent lighting shall be installed in the hoistway of an elevator contracted after March 1, 2019. Three-way switches to control the hoistway lighting shall be installed at the pit access door and the top landing access door. The lighting shall be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

72.10(4) For conveyances contracted after March 1, 2019, all electrical wiring in a machine room, control space, control room, machinery space, and hoistway shall comply with ANSI/NFPA 70 and be enclosed in metal conduit, flexible conduit, or metal raceways. However, this subrule does not apply in applications such as traveling cables and car top work lights where movement is required for proper function or to operating devices and control equipment where adjustment may be needed.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.11(89A) Wind tower lifts. Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception does not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

72.11(1) Wind tower lifts that meet the requirements of subrules 72.11(2) through 72.11(9) are exempt from the requirements of ASME A17.1. This temporary exemption terminates for a wind tower lift upon the occurrence of at least one of the following events:

a. Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the director an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7 (2007) was submitted to an AECO.

b. The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.

c. The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.

d. The AECO has determined that modifications to the wind tower lift are necessary, and the director determines the wind tower lift is not safe to operate prior to completion of the modifications.

e. The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

72.11(2) A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the director no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the director according to the schedule set by the director. The wind tower lift shall receive a periodic inspection by the director annually thereafter.

72.11(3) The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the director prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the director prior to its being placed into operation. The wind tower lift will receive a periodic inspection annually thereafter.

72.11(4) Registration pursuant to this rule requires submission of the following information to the director:

a. The unique identifier of the wind tower.

b. The name of the wind tower owner and contact information for the owner's representative.

c. The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.

d. The location of the wind farm.

e. Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.

f. The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the director.

72.11(5) The owner shall notify the director within 30 days of any change in the information provided pursuant to paragraphs 72.11(4) "b" and "c."

72.11(6) The manufacturer of a lift must notify the director in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding \$2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or accident. The director shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

72.11(7) The manufacturer shall notify the director within seven days of notification to the manufacturer that an AECO has:

a. Issued a Certificate of Conformance for the model or series of wind tower lifts,

b. Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or

c. Determined that modifications to the wind tower lifts are necessary.

72.11(8) Wind tower lifts shall pass an inspection covering the following criteria:

a. Ascending speed, descending speed, and emergency descending speed will not exceed the manufacturer's recommendations.

b. Stop switch, interior lighting, cage entry door, door contact, operating controls, and remote operating controls will operate according to manufacturer's recommendations.

- c. Interior floor and cage framework will appear to be structurally sound.
- d. Enclosure signage recommended by the manufacturer will be in place.
- e. Manufacturer's data plate will be visible.
- f. Hoisting mechanism will appear to be structurally sound and intact from inside and outside the car.
- g. Guide shoes will appear to be structurally sound and undamaged.
- h. Suspended power cords and strain relief devices will reveal no visible damage.
- i. Upper and lower normal and final limits will operate according to the manufacturer's recommendations.
- j. Overspeed device will successfully pass a full-load test.
- k. Overload device will successfully pass an overload test according to the manufacturer's recommendations.
- l. Wire rope, safety rope, and guide rope will show no evidence of wear.
- m. Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments will show no evidence of wear or fatigue.
- n. The wind tower lift will not drift when subjected to a static full load.
- o. Maintenance logs, tags, and other necessary documentation will be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.
- p. Guide rope tension device, safety rope tension device, and suspension rope tension device will pass a visual test for proper tension.
- q. Power cord catch basket will pass a visual inspection.
- r. Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed will not exceed manufacturer's recommendations.
- s. A communication device, if installed in the car, will be operable.
- t. Any other items on the manufacturer's recommended inspection checklist will pass inspection.

72.11(9) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.12(89A) Alterations, repairs, replacements and maintenance.

72.12(1) General. Except as set forth in this rule, all maintenance, repairs, replacements, and alterations comply with the edition of ASME A17.1 currently adopted for new conveyances or ASME A17.7-2007/CSA B44-07, as applicable. "Alterations" in 875—Chapter 71 describes alterations that require that the entire conveyance be brought into compliance with the most current codes.

72.12(2) Exemption for button renumbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 comply with ANSI A117.1 (2017), except for requirement 407.4.7.1.2.

72.12(3) Sump pump exemption. The provisions of ASME A17.1 that require a pit sump or drain do not apply to an elevator alteration when all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. There is evidence that groundwater has not entered the pit previously.
- d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e. A description of alternative means to maintain the pit in a dry condition is provided to the director with the alteration permit application.
- f. The director approves the alternative means to maintain the pit in a dry condition.
- g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

72.12(4) Pit excavation exemption. For elevators altered before August 1, 2018, the full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), will not be required if all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

72.12(5) *Sprinkler retrofits and shunt trip breakers.* When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

a. The installation complies with the applicable version of ASME A17.1, Rule 2.8.3.3.

b. The elevator controls comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.

c. The applicable version of ASME A17.1 is determined by reference to rule 875—72.1(89A). For purposes of this subrule, the relevant subrule of rule 875—72.1(89A) applies based on the date the sprinkler is installed instead of the date the conveyance was installed.

72.12(6) *Alterations of handicapped restricted use elevators.* A component of a handicapped restricted use elevator being altered will comply with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—72.1(89A) will be applied.

72.12(7) *Hoistway lighting.* If the controller for an elevator is being replaced, permanent lighting shall be installed in the hoistway of the elevator. Three-way switches to control the hoistway lighting shall be installed at the pit access door and the top landing access door. The lighting will be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.13(89A) Power-operated special purpose elevators. The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.14(89A) Inclined and vertical wheelchair lifts. The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.15(89A) Hand-powered elevators. Hand-powered elevators shall not be installed after January 1, 1983.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.16(89A) Limited-use/limited-application elevators. The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.17(89A) Rack and pinion, screw-column elevators. The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.18(89A) Inclined elevators. The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.19(89A) Material lift elevators. The provisions contained in ASME A17.1, Sections 7.4 through 7.7 and 7.9 through 7.11, are adopted by reference for material lift elevators installed on or after August 10, 2016.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.20(89A) Elevators used for construction. The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.21(89A) Construction personnel hoists. The provisions of ANSI A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.22(89A) Alarm bell. An automatic passenger elevator shall be provided with an alarm bell that is activated by a switch marked “ALARM” located in or adjacent to the car operating panel. The alarm bell shall be audible inside the car and outside the hoistway.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.23(89A) Child entrapment safeguards. This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

72.23(1) For purposes of this rule, “distance with deflection between the doors or gates” means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

72.23(2) For purposes of this rule, measurements of door or gate deflection are made in the manner described by ASME A17.1, section 2.14.4.6.

72.23(3) Door or gate deflection shall not exceed .75 inch.

72.23(4) If the distance with deflection between the doors or gates exceeds 5 inches, a means shall be provided to disable the elevator if a person is in the space between the closed doors or gates.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.24(89A) Handicapped restricted use elevators. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Additionally, the elevators shall comply with the following limitations:

1. The elevator will be used only by a maximum of one disabled person and one attendant at a time. Where a disabled person cannot operate the elevator in a manner that will ensure access to all operating controls and safety features, an attendant will accompany the disabled person.

2. The elevator will be key-operated and will not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator will be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list will be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car will be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator will not exceed 50 feet.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

875—72.25(89A) Elevators in broadcast towers. This rule applies to special purpose elevators located in broadcast towers.

72.25(1) Anchorages. Anchorages shall be attached inside the car and on the car top.

72.25(2) Emergency stop switch. An emergency stop switch compliant with ASME A17.1, sections 2.26.2.8 and 5.7.19, shall be installed on the car top.

[ARC 8774C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]

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[Filed ARC 0950C (Notice ARC 0753C, IAB 5/29/13), IAB 8/21/13, effective 9/25/13]
[Filed ARC 1232C (Notice ARC 1108C, IAB 10/16/13), IAB 12/11/13, effective 1/31/14]
[Filed ARC 1766C (Notice ARC 1560C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]
[Editorial change: IAC Supplement 2/18/15]¹
[Filed ARC 1891C (Notice ARC 1771C, IAB 12/10/14), IAB 3/4/15, effective 4/8/15]
[Filed ARC 1971C (Notice ARC 1849C, IAB 2/4/15), IAB 4/29/15, effective 6/3/15]
[Filed ARC 1972C (Notice ARC 1853C, IAB 2/4/15), IAB 4/29/15, effective 6/3/15]
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[Filed ARC 2455C (Notice ARC 2356C, IAB 1/6/16), IAB 3/16/16, effective 4/20/16]
[Filed ARC 2603C (Notice ARC 2355C, IAB 1/6/16), IAB 7/6/16, effective 8/10/16]
[Filed ARC 2607C (Notice ARC 2422C, IAB 3/2/16), IAB 7/6/16, effective 8/10/16]
[Filed ARC 3742C (Notice ARC 3503C, IAB 12/20/17), IAB 4/11/18, effective 5/16/18]
[Filed ARC 3856C (Notice ARC 3727C, IAB 4/11/18), IAB 6/20/18, effective 8/1/18]
[Filed ARC 4212C (Notice ARC 4088C, IAB 10/24/18), IAB 1/2/19, effective 3/1/19]
[Filed Emergency After Notice ARC 5089C (Notice ARC 5040C, IAB 5/20/20), IAB 7/15/20,
effective 6/25/20]
[Filed ARC 5570C (Notice ARC 5436C, IAB 2/10/21), IAB 4/21/21, effective 6/1/21]
[Filed ARC 8774C (Notice ARC 8323C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

¹ Adopted language of rule 875—72.22(89A) [ARC 6854B, 6/18/08] editorially restored IAC Supplement 2/18/15.

CHAPTER 73
CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 73]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—73.1(89A) Scope, definitions, and schedule.

73.1(1) This chapter establishes minimum safety standards for all conveyances installed prior to January 1, 1975, except material lift elevators. Conveyances installed on or after January 1, 1975, shall conform with the requirements set forth in 875—Chapter 72. Material lift elevators installed prior to January 1, 1975, are not subject to regulation pursuant to Iowa Code section 89A.2.

73.1(2) The definitions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, A17.1 (1971), are applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

73.1(3) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2021.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision remains in effect.

b. A17.3 (2011) Part X applies to handicapped restricted use elevators without regard to the scope of provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and will not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and does not require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe is adequate compliance.

e. The following substitutes for the final sentence of A17.3 (2011), Rule 2.1.5(b): “Previously installed 60-inch chains are deemed to be in compliance.”

f. An elevator that was legally installed with guide rails made of materials other than steel is not required to replace the guide rails due to the adoption of A17.3 (2011).

g. Electrical protective devices required by A17.3, requirement 3.10.4, shall cause the electric power to be removed from the elevator driving-machine motor and brake.

h. Control panels that are designed with a door or cover and lock shall be locked when service is not being performed if equipment unrelated to the elevator is in the machine room. Group 1 security as set forth in A17.1, section 8.1, shall be utilized.

i. A car top emergency exit pursuant to A17.3 (2011), requirement 3.4.4.1(a), is not required for a hydraulic elevator if the elevator has manual lowering and it is not equipped with a plunger gripper or safety as described in ASME A17.1 (2013), requirement 8.6.5.8.

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, concerning car top lighting and car top electrical outlets, is adopted by reference with an effective date of May 1, 2021. However, if a car top already has a single outlet, installation of a duplex outlet will not be required.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.2(89A) Electrical protective devices. All electrical equipment pertaining to the elevator shall conform to ANSI C1-1975 (NFPA 70-1975).

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.3(89A) Maintenance, repair and alteration requirements.

73.3(1) *General.* Except as set forth in this rule, all maintenance, repairs and alterations comply with the edition of ASME A17.1, Part 8, currently adopted for new conveyances or ASME A17.7-2007/CSA

B44-07, as applicable. Alterations that require that the entire conveyance be brought into compliance with the most current code are described in 875—Chapter 71.

73.3(2) Exemption for button numbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 comply with ANSI A117.1 (2017), except for requirement 407.4.7.1.2.

73.3(3) Sump pump exemption. The provisions of ASME A17.1 that require a pit sump or drain do not apply to an elevator alteration when all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. There is evidence that groundwater has not entered the pit previously.
- d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e. A description of alternative means to maintain the pit in a dry condition is provided to the director with the alteration permit application.
- f. The director approves the alternative means to maintain the pit in a dry condition.
- g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

73.3(4) Pit excavation exemption. The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), is not required if all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.
- d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

73.3(5) Sprinkler retrofits and shunt trip breakers. When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

- a. For installations, the applicable version of ASME A17.1, Rule 2.8.3.3.
- b. For elevator controls, the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.
- c. The applicable version of ASME A17.1 is determined by reference to rule 875—72.1(89A). For purposes of this subrule, the relevant subrule of rule 875—72.1(89A) applies based on the date the sprinkler is installed instead of the date the conveyance was installed.

73.3(6) Safety bulkheads. Documentation from the manufacturer establishing that a safety bulkhead was installed shall establish compliance with ASME A17.1, Rule 8.6.5.8.

73.3(7) Alterations of handicapped restricted use elevators. A component of a handicapped restricted use elevator being altered complies with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—32.1(89A) is applied.

73.3(8) Hoistway lighting. If the controller for an elevator is being replaced, permanent lighting is installed in the hoistway of the elevator. Three-way switches to control the hoistway lighting are installed at the pit access door and the top landing access door. The lighting shall be sufficient to provide 10 foot-candles of light to the center of the elevator path measured when the car top lights are off. Engineering calculations that prove 10 foot-candles of light are provided to the center of the elevator path may be substituted for light meter measurements under circumstances such as a glass back car where use of a light meter is not practical.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.4(89A) Existing hand elevators. A sign reading “Danger—Elevator Hoistway—Keep Closed” shall be mounted on each hoistway door with letters at least 2 inches high.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.5(89A) Dumbwaiters. All dumbwaiters whether electric or hand powered conform to ANSI A17.1 (1971), section 700. Exceptions: Required rules for hoistway construction as set forth in ANSI A17.1 (1971), do not apply to existing installations.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.6(89A) Child entrapment safeguard requirements. This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

73.6(1) For purposes of this rule, “distance with deflection between the doors or gates” means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

73.6(2) For purposes of this rule, measurements of door or gate deflection are made in the manner described by ASME A17.1, section 2.14.4.6.

73.6(3) Door or gate deflection do not exceed .75 inch.

73.6(4) If the distance with deflection between the doors or gates exceeds 5 inches, a means will be provided to disable the elevator if a person is in the space between the closed doors or gates.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.7(89A) Elevators in broadcast towers. This rule applies to special purpose elevators located in broadcast towers.

73.7(1) Anchorages. Anchorages shall be attached inside the car and on the car top.

73.7(2) Emergency stop switch. An emergency stop switch compliant with ASME A17.1, sections 2.26.2.8 and 5.7.19, shall be installed on the car top.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

875—73.8(89A) Handicapped restricted use elevator requirements. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Additionally, the elevators will comply with the following limitations:

1. The elevator is used only by a maximum of one disabled person and one attendant at a time. Where a disabled individual cannot operate the elevator in a manner that will ensure access to all operating controls and safety features, an attendant accompanies the disabled individual.

2. The elevator is key-operated and not capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator are in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list is maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car will be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator will not exceed 50 feet.

[ARC 8777C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 89A.

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[Filed ARC 1972C (Notice ARC 1853C, IAB 2/4/15), IAB 4/29/15, effective 6/3/15]
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[Filed Emergency After Notice ARC 5089C (Notice ARC 5040C, IAB 5/20/20), IAB 7/15/20,
effective 6/25/20]
[Filed ARC 8777C (Notice ARC 8324C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 74
EXISTING ESCALATORS, MOVING WALKS AND DUMBWAITERS
[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 74]
Rules 74.1 to 74.3 renumbered as 73.22 to 73.24 IAB 3/7/01, effective 4/11/01

CHAPTER 75
FEES
Rescinded IAB 6/17/09, effective 7/22/09

CHAPTER 76
PERMITS
Rescinded IAB 6/17/09, effective 7/22/09

CHAPTER 77
VARIANCES
Rescinded IAB 6/18/08, effective 7/23/08.

CHAPTERS 78 and 79
Reserved

BOILERS AND PRESSURE VESSELS

CHAPTER 80

BOILER AND PRESSURE VESSEL BOARD
ADMINISTRATIVE AND REGULATORY AUTHORITY

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

875—80.1(89) Definitions. The definitions contained in this rule apply to 875—Chapters 80 to 96.

“*Board*” means the boiler and pressure vessel board.

“*Board office*” means the offices of the division of labor services of the department of workforce development.

“*Commissioner*” means the labor commissioner of the state of Iowa.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—80.2(89) Purpose and authority of board. The purpose of the board is to perform the statutory duties described in Iowa Code chapter 89. The board’s mission is to protect the public health, safety and welfare by improving the installation, repair, maintenance, alteration, use, and operation of boilers and pressure vessels in the state. The authority and responsibilities of the board include, but are not limited to:

80.2(1) Adopting rules necessary to protect public safety and health and to administer the duties of the board.

80.2(2) Hearing and deciding appeals concerning boiler and pressure vessel inspection reports.

80.2(3) Establishing fees.

80.2(4) Establishing committees of the board, the members and chairpersons of which shall be appointed by the board chairperson.

80.2(5) Performing any other function authorized by law.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—80.3(89) Organization of board.

80.3(1) The board shall be composed of the commissioner or the commissioner’s designee and eight additional members appointed by the governor and confirmed by the senate.

80.3(2) The eight appointed members of the board shall include:

a. One member who is a special inspector and who is employed by an insurance company and commissioned to inspect boilers and pressure vessels.

b. One member from a certified employee organization who shall represent steamfitters.

c. Two members who are mechanical engineers who regularly practice in the area of boilers and pressure vessels.

d. One member who is a boiler and pressure vessel distributor.

e. One member who represents boiler and pressure vessel manufacturers.

f. One member who is a mechanical contractor engaged in the business of installation, renovation, and repair of boilers and pressure vessels.

g. One member from a certified employee organization who shall represent boilermakers.

80.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after July 1 of each year. Neither the commissioner nor the commissioner’s designee may serve as chairperson. The chairperson shall, when present, preside at meetings, appoint committees, and perform all duties and exercise all powers of the chairperson. The vice chairperson shall, in the absence or incapacity of the chairperson, perform all duties and exercise all powers of the chairperson.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—80.4(21,89) Public meetings.

80.4(1) The board shall hold at least one meeting each calendar quarter.

80.4(2) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board’s proceedings shall be conducted in accordance with Robert’s Rules of Order.

80.4(3) The chairperson or the chairperson's designee shall prepare an agenda listing all matters to be discussed at the meeting.

80.4(4) A majority of the members of the board shall constitute a quorum, and all final motions and actions must receive a majority of a quorum vote.

80.4(5) Members of the public may be present during board meetings unless the board votes to hold a closed session in accordance with Iowa Code chapter 21. The dates and locations of board meetings may be obtained from the board's website or the board office.

80.4(6) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person when a particular topic comes before the board may be granted at the discretion of the chairperson. The chairperson may limit total public comment time to ten minutes.

80.4(7) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

80.4(8) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—80.5(89) Official communications. All official communications, including submissions and requests, shall be addressed to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

These rules are intended to implement Iowa Code chapters 21 and 89.

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

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[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

CHAPTER 81
WAIVERS FROM ADMINISTRATIVE RULES
BY THE BOILER AND PRESSURE VESSEL BOARD

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

875—81.1(17A,89) Waivers of rules. This chapter 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 chapter with respect to any waiver from that rule.

875—81.2(17A,89) 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.

875—81.3(17A,89) Criteria for waiver. In response to a petition completed pursuant to this chapter, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

81.3(1) The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

81.3(2) The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

81.3(3) The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

81.3(4) 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.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—81.4(17A,89) Filing of petition. A petition for a waiver must be submitted in writing to the board as follows:

81.4(1) *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.

81.4(2) *Other.* 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.

81.4(3) *Filing petition.* A petition is deemed filed when it is received in the board's office. A petition and related materials for consideration should be sent to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—81.5(17A,89) Content of petition. The required form for a petition for waiver is available on the board's website at iowaboilers.gov. A petition for waiver shall include the following information where applicable and known to the petitioner:

81.5(1) 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.

81.5(2) A description of and citation to the specific rule from which a waiver is requested.

81.5(3) The specific waiver requested, including the precise scope and duration.

81.5(4) The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 875—81.3(17A,89). 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.

81.5(5) 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 the boiler or pressure vessel affected by the proposed waiver.

81.5(6) Information regarding the board's action in similar cases.

81.5(7) The name, address, and telephone number of any public agency or political subdivision which might be affected by the granting of a waiver.

81.5(8) The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

81.5(9) The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

81.5(10) Signed releases of information authorizing persons with knowledge regarding the petition to furnish the board with information relevant to the petition for waiver.

81.5(11) The state boiler identification number of the relevant object.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—81.6(17A,89) 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.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—81.7(17A,89) Notice. The board shall acknowledge a petition within 10 days of its receipt in the board office. The board shall ensure that notice of the pending petition has been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. 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.

875—81.8(17A,89) Board review procedures.

81.8(1) Unless the board makes other arrangements, petitions for waiver will be reviewed and may be granted or denied at the next scheduled board meeting following receipt of the petition. However, if the petition is received less than three weeks prior to the scheduled board meeting, the petition will be reviewed at the subsequent meeting.

81.8(2) The petitioner shall be provided a reasonable opportunity to make a presentation to the board. The length of time allotted for presentation shall be reasonable in light of the complexity and number of issues involved.

875—81.9(17A,89) 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.

875—81.10(17A,89) 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.

81.10(1) 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.

81.10(2) *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.

81.10(3) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

81.10(4) *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.

81.10(5) *Conditions.* The board may place on a waiver any condition that the board finds desirable to protect the public health, safety, and welfare.

81.10(6) *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 board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

81.10(7) *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.

81.10(8) *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.

81.10(9) *Service of order.* Within 14 days of the ruling, 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.

81.10(10) *Posting of orders granting waivers.* The order or a copy of the order granting a waiver shall be conspicuously and permanently posted in the room where the object is installed.

875—81.11(17A,89) Public availability. 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 contain information the board is authorized or required to keep confidential, the board may instruct the board office to accordingly redact confidential information from petitions or orders prior to public inspection.

875—81.12(17A,89) Submission of waiver information. Information about all orders granting or denying a waiver petition shall be submitted by the board staff to the legislative services agency through the designated Internet site within 60 days of granting or denying the petition. The information submitted is available to the public via the website.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—81.13(17A,89) 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 review, the board issues an order finding any of the following:

81.13(1) 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

81.13(2) 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

81.13(3) The subject of the waiver order has failed to comply with all conditions contained in the order.

875—81.14(17A,89) 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.

875—81.15(17A,89) 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 specific object to which the order pertains in any proceeding in which the rule in question is sought to be invoked.

875—81.16(17A,89) 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.

These rules are intended to implement Iowa Code chapters 17A, 22, and 89.

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

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

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[Filed ARC 3635C (Notice ARC 3504C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

[◇] Two or more ARCs

CHAPTER 82
BOILER AND PRESSURE VESSEL BOARD PETITIONS FOR RULE MAKING

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

875—82.1(17A,89) Petitions for rule making. Any person or agency may file a petition for rule making with the board requesting the adoption, amendment or repeal of a rule. The required form for a petition for rule making is available on the board's website at iowaboilers.gov. The petition shall be filed at the location specified in rule 875—80.5(89). A petition is deemed filed when it is received by the board office. The board office shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be in writing and provide the following information where applicable and known to the petitioner:

82.1(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 to and the relevant language of the particular portion or portions of the rule proposed to be amended or repealed.

82.1(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.

82.1(3) A brief summary of petitioner's arguments in support of the action urged in the petition.

82.1(4) A brief summary of any data supporting the action urged in the petition.

82.1(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.

82.1(6) The petition must be dated and signed by the petitioner or the petitioner's representative. The petition 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. If desired, the petition should also provide an email address and a statement that email is an acceptable method for communication.

82.1(7) The board may deny a petition because it does not provide the required information.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—82.2(17A,89) Briefs. 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.

875—82.3(17A,89) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—82.4(17A,89) Board review procedures.

82.4(1) Unless the board makes other arrangements, petitions for rule making will be reviewed and may be granted or denied at the next scheduled board meeting following receipt of the petition. However, if the petition is received less than three weeks prior to the scheduled board meeting, the petition will be reviewed at the subsequent meeting. 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.

82.4(2) The petitioner shall be provided a reasonable opportunity to make a presentation to the board. The length of time allotted for presentation shall be reasonable in light of the complexity and number of issues involved.

82.4(3) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall deny the petition in writing and notify petitioner of its action and the specific

grounds for the denial, or grant the petition and notify petitioner that the board will institute rule-making proceedings on the subject of the petition. Notice shall be sent by the board office to the petitioner by regular mail or email if appropriate. Petitioner shall be deemed notified of the denial or granting of the petition on the date the board office mails the required notification to the petitioner. Copies of the petition and the document granting or denying the petition shall be sent to the administrative rules review committee.

82.4(4) Denial of a petition because it does not contain the required information 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.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

These rules are intended to implement Iowa Code chapters 17A and 89.

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[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

CHAPTER 83
DECLARATORY ORDERS BY THE BOILER AND PRESSURE VESSEL BOARD

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

875—83.1(17A,89) Petition for declaratory order. Any person may file at the board office a petition with 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 board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose.

83.1(1) The required form for a petition for declaratory order is available on the board's website at iowaboilers.gov. The petition must be in writing and provide the following information where applicable and known to the petitioner:

- a. A clear and concise statement of all relevant facts on which the order is requested.
- b. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
- c. Clear and concise questions the petitioner wants the board to answer.
- d. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
- e. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
- f. 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 directed by, are pending determination by, or are under investigation by any governmental entity.
- g. 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 in the petition.

83.1(2) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 3635C, IAB 2/14/18, effective 3/21/18]

875—83.2(17A,89) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to rule 875—83.6(17A,89) to whom notice is required by any provision of law. The board may also give notice to any other persons.

875—83.3(17A,89) Intervention.

83.3(1) A 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 shall be allowed to intervene in a proceeding for a declaratory order.

83.3(2) At the board's discretion, a person who qualifies under any applicable provision of law as an intervenor and who files a petition for intervention more than 20 days after the filing of a petition for declaratory order but prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order.

83.3(3) A petition for intervention shall be filed at the board office. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose.

a. A petition for intervention must be in writing and provide the following information where applicable and known to the requester:

- (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.

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

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—83.4(17A,89) Briefs. The petitioner or intervenor may file a brief in support of the position urged. The board may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised in the petition.

875—83.5(17A,89) Inquiries. Inquiries concerning the status of a declaratory order may be made to the Boiler and Pressure Vessel Board, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—83.6(17A,89) Service and filing of petitions and other papers.

83.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with its filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

83.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the board at the board office. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board.

83.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rules 875—84.10(17A,89) and 875—84.11(17A,89).

875—83.7(17A,89) Board review procedures.

83.7(1) Within 30 days after receipt of a petition for a declaratory order, the board shall issue a document that does one of the following:

- a.* Declares the applicability of the statute, rule or order to the specified circumstances,
- b.* Sets the matter for specific proceedings,
- c.* Agrees to issue a declaratory order by a specified time, or
- d.* Declines to issue a declaratory order and sets forth the reasons for its actions as provided in subrule 83.9(1).

83.7(2) The board may request that the petitioner submit additional information or argument concerning the petition. The board may also solicit comments on the substance of the petition from any person. Also, comments on the substance of the petition may be submitted to the board by any person.

83.7(3) The petitioner and all intervenors shall be provided a reasonable opportunity to make a presentation to the board. The length of time allotted for presentation shall be reasonable in light of the complexity and number of issues involved.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—83.8(17A,89) Action on petition. Rescinded IAB 9/22/10, effective 10/27/10.

875—83.9(17A,89) Refusal to issue order.

83.9(1) The board shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a. The petition does not provide the required information.
- b. Rescinded IAB 9/22/10, effective 10/27/10.
- 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 board 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 a board 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 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.

83.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final board action on the petition.

83.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for refusal to issue an order.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—83.10(17A,89) Contents of declaratory order—effective date. In addition to the ruling 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.

875—83.11(17A,89) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

875—83.12(17A,89) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order in a contested case proceeding. It is binding on the board, the petitioner and any intervenors 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 board action on the petition.

These rules are intended to implement Iowa Code chapters 17A and 89.

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed ARC 9082B (Notice ARC 8694B, IAB 4/21/10), IAB 9/22/10, effective 10/27/10]

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[Filed ARC 3635C (Notice ARC 3504C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

CHAPTER 84
CONTESTED CASES BEFORE THE BOILER AND PRESSURE VESSEL BOARD

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

875—84.1(17A,89) Reconsideration of inspection report. The owner or operator of a piece of equipment subject to a written inspection report may petition the commissioner for reconsideration of the report within 30 days of the issuance of the report. Failure to seek timely reconsideration of the inspection report from the commissioner shall be deemed a waiver of all appeal rights under Iowa Code subsection 89.14(6). The burden of demonstrating compliance with all applicable statutory provisions, administrative rules, and ASME code sections rests upon the petitioning owner or operator.

84.1(1) A petition for reconsideration shall be in writing and must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's website at iowaboilers.gov. A petition for reconsideration shall specify:

- a. The party seeking reconsideration, including mailing address and telephone number;
- b. The location of the equipment subject to the challenged inspection report;
- c. The inspection date;
- d. The inspector who issued the challenged inspection report;
- e. The specific findings or conclusions to which exception is taken;
- f. The relief sought.

84.1(2) A copy of the challenged inspection report shall be attached to the petition for reconsideration. The petitioning party shall also include all relevant documents that the petitioning party desires the commissioner to consider when evaluating the petition.

84.1(3) The commissioner or a designee of the commissioner is authorized to seek additional information relating to a petition for reconsideration from the petitioning party or any other entity possessing information the commissioner deems relevant to the petition. This subrule, however, does not impose any responsibility or duty on the commissioner to discover documents or other information that was not submitted with the petition for reconsideration.

84.1(4) Any petition for reconsideration that is not received by the office of the commissioner within 30 days of the issuance of the challenged inspection report shall be deemed untimely and will not be considered by the commissioner.

84.1(5) The commissioner shall not consider any request for waiver or variance of an administrative rule made as part of a petition for reconsideration. Requests for waivers or variances of administrative rules may only be made to the board pursuant to the provisions of 875—Chapter 81.

84.1(6) The commissioner shall issue a written ruling on the petition for reconsideration. In ruling on a petition for reconsideration, the commissioner may:

- a. Affirm the inspection report as issued;
- b. Issue an amended inspection report;
- c. Rescind the inspection report;
- d. Deny the petition as untimely.

84.1(7) Any petition for reconsideration that is not ruled upon by the commissioner within 20 days of receipt by the office of the commissioner shall be deemed denied by the commissioner and the challenged inspection report shall be considered affirmed as issued.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 3635C, IAB 2/14/18, effective 3/21/18]

875—84.2(17A,89) Appeal to the board. The commissioner's ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration may be appealed to the board. An appeal must be filed in writing with the board within 30 calendar days of the earlier of either the issuance of the commissioner's written ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration. At a minimum, an appeal shall include a short and concise statement of the basis for the appeal. The required form for an appeal is available on the board's website at iowaboilers.gov. Consideration of an appeal of a ruling on a petition for reconsideration shall be a contested case proceeding subject to the provisions of Iowa Code chapter 17A. The commissioner shall have an automatic right of

intervention in any appeal of the ruling on petition for reconsideration and shall defend the ruling in a contested case proceeding.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—84.3(17A,89) Informal review. If the appellant requests an informal review and the commissioner does not object, the board may conduct an informal review of the facts and circumstances subject to the provisions of this rule.

84.3(1) In order to preserve the ability of board members to participate in decision making, parties who desire participation in an informal review must therefore waive their right to seek disqualification of a board member based solely on the board member's participation in the informal review. Parties would not be waiving their right to seek disqualification on any other ground. By electing to participate in informal review, a party accordingly agrees that a participating board member is not disqualified from acting as a presiding officer in a later contested case proceeding.

84.3(2) The board may propose a preliminary order at the time of informal review. If a party does not consent to the preliminary order, a party must submit a request to proceed with formal contested case proceedings, including hearing, within ten days of the informal review.

84.3(3) Rules 875—84.4(17A,89) through 875—84.31(17A,89) do not apply during informal review.
[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—84.4(17A,89) Delivery of notice. Delivery of the notice of hearing by the board constitutes the commencement of a contested case proceeding. Delivery may be executed by regular mail. The notice shall be delivered to the appellant, the appellant's attorney, if known, and the commissioner.

875—84.5(17A,89) 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 short and plain statement of the matters asserted. If the board 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. The notice shall contain a statement that it is the appellant's burden on appeal to prove compliance with all applicable statutory provisions, administrative rules, and ASME code sections. The notice shall also contain a reference to the applicable statute and rules.

875—84.6(17A,89) Scope of issues. Only those issues raised before the commissioner in the petition for reconsideration will be considered preserved for appeal to the board.

875—84.7(17A,89) File transmitted to the board. Upon receipt of a notice of hearing issued by the board, the commissioner shall within 30 days forward to the board and all parties of record to the appeal copies of the challenged inspection report, the appellant's petition for reconsideration and all supporting documents, all other documents collected by the commissioner in ruling on the petition for reconsideration, and the commissioner's ruling on the petition for reconsideration.

875—84.8(17A,89) Legal representation. Any private party to a contested case shall be entitled to legal representation at the discretion and expense of that party.

875—84.9(17A,89) Presiding officer.

84.9(1) The presiding officer in all contested cases shall be the board, a panel of board members, or an administrative law judge assigned by the department of inspections and appeals. When board members act as presiding officer, they shall conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. As provided in subrule 84.9(4), the board may be assisted by an administrative law judge when the board acts as presiding officer.

84.9(2) Any party to a contested case that 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 the presiding officer as the board. The board may deny the request only upon a finding that one or more of the following apply:

- a. Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e. Funds are unavailable to pay the costs of an administrative law judge and an interboard appeal.
- f. The request was not timely filed.
- g. The request is not consistent with a specified statute.

84.9(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is granted, the administrative law judge assigned to act as presiding officer and to issue a proposed decision in a contested case shall have a J.D. degree unless this requirement is waived by the board.

84.9(4) The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

84.9(5) All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 875—84.26(17A,89) and 875—84.27(17A,89). A party must timely seek intra-agency appeal of prehearing rulings or proposed decisions in order to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

84.9(6) Unless otherwise provided by law, when reviewing a proposed decision of a panel of the board or an administrative law judge, board members shall have the powers of and shall comply with the provisions of this chapter that apply to presiding officers.

875—84.10(17A,89) Service and filing.

84.10(1) *Service—when required.* Except where otherwise provided by law, when a document is filed in a contested case proceeding, it shall be served upon each of the parties of record. 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.

84.10(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 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.

84.10(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding shall be filed with the board office. All documents that are required to be served upon a party shall be filed simultaneously with the board.

84.10(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board at the location set forth in rule 875—80.5(89), 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.

84.10(5) *Proof of mailing.* Proof of mailing includes either:

- a. A legible United States Postal Service postmark on the envelope;
- b. A certified mail return receipt;
- c. A notarized affidavit; or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Boiler and Pressure Vessel

Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(Date)

(Signature)

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—84.11(17A,89) Time requirements.

84.11(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

84.11(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. 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.

875—84.12(17A,89) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when the board deems the waiver to be inconsistent with the public interest.

875—84.13(17A,89) Telephone and electronic proceedings. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone. Any objections shall be filed with the board and served on all parties at least three business days in advance of hearing.

875—84.14(17A,89) Disqualification.

84.14(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.

84.14(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 board functions, including fact gathering for purposes other than

investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrule 84.25(7).

84.14(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.

84.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 84.14(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

84.14(5) 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.

84.14(6) 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 875—84.26(17A,89) and seek a stay under rule 875—84.30(17A,89).

875—84.15(17A,89) Consolidation and severance.

84.15(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.

84.15(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

875—84.16(17A,89) Discovery.

84.16(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.

84.16(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. 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.

875—84.17(17A,89) 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.

84.17(1) Upon the written request of a party, the presiding officer shall 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.

84.17(2) A request for a subpoena shall include the following information, as applicable:

- 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.

84.17(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 presiding officer;
- j. The date of issuance;
- k. A return of service attached to the subpoena.

84.17(4) The presiding officer shall mail or otherwise provide 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.

84.17(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.

84.17(6) Upon receipt of a timely motion to quash or modify a subpoena, the board chairperson 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.

84.17(7) A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board, 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.

84.17(8) If the person contesting the subpoena is not the party whose appeal 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 party whose appeal 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.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—84.18(17A,89) Motions.

84.18(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.

84.18(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.

84.18(3) The presiding officer may schedule oral argument on any motion.

84.18(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.

84.18(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 875—84.29(17A,89) and appeal pursuant to subrule 84.27(3).

875—84.19(17A,89) 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 any party. The board shall not be involved in negotiation until a written proposed settlement is submitted for approval, unless the parties waive this prohibition.

875—84.20(17A,89) Prehearing conference.

84.20(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.

84.20(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.

84.20(3) In addition to the requirements of subrule 84.20(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.

84.20(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.

875—84.21(17A,89) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

84.21(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.

84.21(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.

875—84.22(17A,89) 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.

875—84.23(17A,89) Hearing procedures.

84.23(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.

84.23(2) All objections shall be timely made and stated on the record.

84.23(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.

84.23(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.

84.23(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

84.23(6) Witnesses may be sequestered during the hearing.

84.23(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.

84.23(8) The presiding officer has the right to question a witness. Examination of witnesses by the presiding officer is subject to properly raised objections.

84.23(9) The hearing shall be open to the public, except as otherwise provided by law.

84.23(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 board for five years after the resolution of the case.

84.23(11) Default.

a. If no continuance was granted and a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may 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 84.27(3). 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 attached, sworn affidavit of a person with personal knowledge of the fact.

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.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—84.24(17A,89) Evidence.

84.24(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.

84.24(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

84.24(3) Evidence in the proceeding shall be confined to the contested issues as identified in the notice of hearing.

84.24(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.

84.24(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.

84.24(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.

875—84.25(17A,89) Ex parte communication.

84.25(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, 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.

84.25(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.

84.25(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

84.25(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.

84.25(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.

84.25(6) 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.

a. If the presiding officer determines that disqualification is warranted, the following shall be submitted for inclusion in the record under each seal by protective order:

- (1) A copy of any prohibited written communication,
- (2) All written responses to the communication,
- (3) A written summary stating the substance of any prohibited oral or other communication not available in written form and all responses made, and
- (4) The identity of each person from whom the presiding officer received a prohibited ex parte communication.

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.

84.25(7) 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.

84.25(8) 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 commissioner.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—84.26(17A,89) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge, such as a ruling on a motion to quash a subpoena or other prehearing motion. In determining whether to do so, the board 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 the interlocutory order at the time of the issuance of a final decision 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 date for compliance with the order or the date of hearing, whichever is earlier.

875—84.27(17A,89) Decisions.

84.27(1) *Proposed decision.* Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. A proposed decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

84.27(2) *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. A copy of the final decision and order shall immediately be sent by certified mail to the appellant's last-known post office address or may be served as in the manner of original notices. Copies shall be mailed by interoffice mail or first-class mail to the counsel of record.

84.27(3) *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, 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 board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

g. Record. The record on appeal or review shall be the entire record made before the hearing panel or administrative law judge.

875—84.28(17A,89) Contested cases with no factual disputes. 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.

875—84.29(17A,89) Applications for rehearing.

84.29(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

84.29(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.

84.29(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

84.29(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.

84.29(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.

875—84.30(17A,89) Stays of board actions.

84.30(1) *When available.*

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

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

84.30(2) *When granted.* In determining whether to grant a stay, the presiding officer or board shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

84.30(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the board or any other party.

875—84.31(17A,89) Judicial review. Judicial review of the board’s decision may be sought in accordance with the terms of Iowa Code chapter 17A.

84.31(1) Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the board’s final decision. The board’s final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order.

84.31(2) If a party does file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the application for rehearing is denied or deemed denied. An application for rehearing is denied or deemed denied as provided in subrule 84.29(5).

These rules are intended to implement Iowa Code chapters 17A and 89.

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CHAPTER 85
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
OF THE BOILER AND PRESSURE VESSEL BOARD

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

875—85.1(22,89) Definitions. As used in this chapter:

“*Confidential record*” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the board is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, by the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” in these rules means the boiler and pressure vessel board.

“*Personally identifiable information*” in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” in these rules means the whole or a part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the board.

“*Record system*” in these rules means any group of records under the control of the board from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.2(22,89) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records and sound board determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The board is committed to the policies set forth in Iowa Code chapter 22; the board shall cooperate with members of the public in implementing the provisions of that chapter.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.3(22,89) Requests for access to records.

85.3(1) Address. The board’s address is Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

85.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays.

85.3(3) Request for access. Requests for access to open records may be made in writing, in person, by facsimile, email, or other electronic means, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, and telephone number of the person requesting the information to facilitate the board’s response. A person shall not be required to give a reason for requesting an open record.

85.3(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 of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a

confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 875—85.4(22,89) in this chapter and other applicable provisions of law.

85.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from board files. Examination and copying of board records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

85.3(6) *Copying.* A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available in the board office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

85.3(7) *Fees.*

a. When charged. The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board shall be available in board offices. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and posted in board 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. Supervisory fee. An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of 15 minutes. The custodian shall prominently post in board offices the hourly fees to be charged for supervision of records during examination and copying. The hourly fee shall be based upon the pay scale of the employee involved and other actual costs incurred. To the extent permitted by law, a search fee may be charged at the same rate as and under the same conditions as are applicable to supervisory fees.

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 advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—85.4(22,89) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 875—85.3(22,89).

85.4(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.

85.4(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.

85.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

85.4(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.

85.4(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.

875—85.5(22,89) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

85.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

85.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question with those portions deleted for which such confidential record treatment has been requested. If the original record is being submitted to the board by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

85.5(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 board 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.

85.5(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.

85.5(5) *Request granted or deferred.* If a request for 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.

85.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the

requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.6(22,89) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any board proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—85.7(22,89) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and 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 person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of an attorney before the board on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the board to disclose records about that person to the person's attorney.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.8(22,89) Disclosures without the consent of the subject.

85.8(1) Open records are routinely disclosed without the consent of the subject.

85.8(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 875—85.9(17A,89) or in the notice for a particular record system.

b. To a recipient who has provided the board 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 the government agency or instrumentality has submitted a written request to the board 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 9082B, IAB 9/22/10, effective 10/27/10]

875—85.9(17A,89) Routine use. “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. “Routine use” includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all board records:

85.9(1) Disclosure to those officers, employees, and agents of the board 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 a legitimate need to use confidential records.

85.9(2) 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.

85.9(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the board.

85.9(4) Transfers of information within the board, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

85.9(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the board is operating a program lawfully.

85.9(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

85.9(7) Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlement filed in appeal proceedings.

85.9(8) Transmittal to the district court of the record in judicial review proceedings pursuant to Iowa Code section 17A.19.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.10(22,89) Consensual disclosure of confidential records.

85.10(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 875—85.7(22,89).

85.10(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

875—85.11(22,89) Release to subject.

85.11(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the board need not release the following records to the subject:

- a. The identity of a person providing information to the board need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

- c. Peace officers’ investigative reports may be withheld from the subject, except as required by the Iowa Code. (Iowa Code section 22.7(5))

- d. Other records may be withheld from the subject as authorized by law.

85.11(2) When a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.12(21,22,89) Availability of records.

85.12(1) General. Board records are open for public inspection and copying unless otherwise provided by rule or law.

85.12(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Personal information in confidential personnel records of board members and licensees. (Iowa Code section 22.7(11))

b. Minutes and tapes of closed meetings of the board. (Iowa Code section 21.5(5))

c. Information or records received from a restricted source and any other information or records made confidential by law.

d. Records which constitute attorney work products or attorney-client communications or which are otherwise privileged pursuant to Iowa Code section 22.7, 622.10 or 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) “e.”

85.12(3) Authority to release confidential records. The board may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 875—85.4(22,89). If the board initially determines that it will release such records, the board may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 85.4(3).

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—85.13(22,89) Applicability. This chapter does not:

85.13(1) Require the board to index or retrieve records that contain information about individuals by a person’s name or other personal identifier.

85.13(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

85.13(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the board that are governed by the regulations of another agency.

85.13(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

85.13(5) Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the board.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.14(17A,22,89) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the board by personal identifier in record systems. For each record system, this rule describes the legal authority for the collection of that information. The record systems maintained by the board are:

85.14(1) Personnel records. These records contain personal information about board members which may be confidential pursuant to Iowa Code section 22.7(11). The records may include but are not limited to biographical information, medical information relating to disability, and information required for expense reimbursement.

85.14(2) *Contested case records.* Contested case records are maintained and contain names of the people involved. Evidence and documents submitted as a result of a hearing are contained in the contested case records. These records are collected pursuant to Iowa Code section 89.14.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—85.15(17A,22,89) Other groups of records. This rule describes groups of records maintained by the board other than record systems. These records are routinely available to the public. However, the board's files of these records may contain confidential information. These records may contain information about individuals. These records include:

85.15(1) *Rule-making records.* Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are stored on paper and electronically.

85.15(2) *Board records.* Agendas, minutes, and materials presented to the board members in preparation for board meetings are available from the board office, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(5). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is stored on paper and electronically.

85.15(3) *Board decisions, findings of fact, final orders, and other statements of law, policy, or declaratory orders issued by the board in the performance of its functions.* These records are open to the public except for information that is confidential according to rule 875—85.12(21,22,89). This information is stored on paper and electronically.

85.15(4) *Waivers and variances.* Requests for waivers and variances, board proceedings and rulings on such requests, and reports prepared for the administrative rules review committee and others are stored on paper and electronically.

85.15(5) *Publications.* News releases, project reports, newsletters, and other publications are available from the board office. These records may contain information about individuals. This information is stored on paper and electronically, and some publications may be found on the board's website.

85.15(6) *Other records.* Other records that are not exempted from disclosure by law may be stored on paper or electronically.

[ARC 9082B, IAB 9/22/10, effective 10/27/10; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—85.16(22,89) Data processing system. Board records are not stored in a data processing system which matches, collates, or permits comparison of personally identifiable information in one record system with personally identifiable information in another record system.

875—85.17(22,89) Notice to suppliers of information. Persons that are requested by the board to provide information to the board are notified pursuant to this rule of uses the board will make of the information.

85.17(1) The board may request names and affiliations from members of the public that attend board meetings. Except for closed sessions, the records of board meetings are public records and information supplied will be subject to records requests pursuant to this chapter and Iowa Code chapter 22. Provision of this information is voluntary and there will be no consequences for failure to provide requested information unless the person is also covered by subrule 85.17(2).

85.17(2) The board will request name, contact information, and affiliation from persons requesting board action. This information will be used as needed to process the request for board action. Requests for board action are public records and information supplied will be subject to open records requests pursuant to this chapter and Iowa Code chapter 22. Insufficient contact information provided with the request for board action could result in a denial of the request for board action.

These rules are intended to implement Iowa Code chapters 17A, 21, 22 and 89.

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CHAPTERS 86 to 89
Reserved

CHAPTER 90
ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Chs 200, 202]

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

875—90.1(89) Purpose and scope. These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89. An object shall not be considered “under pressure” and shall not be within the scope of Iowa Code chapter 89 when there is clear evidence that the manufacturer did not intend it to be operated at more than 3 psi and the object is operating at 3 psi or less. Jurisdiction is limited to objects, appurtenances, controls, safety devices, and equipment rooms as required by Iowa rules.

[ARC 0416C, IAB 10/31/12, effective 12/5/12; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—90.2(89,252J,272D) Definitions. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Alteration*” means a change in the object described on the original manufacturer’s data report that affects the pressure-retaining capability of the pressure-retaining object. A nonphysical change such as an increase in the maximum allowable working pressure (internal or external), an increase in design temperature, or a reduction in minimum temperature of a pressure-retaining item shall be considered an alteration.

“*ANSI/ASME CSD-1*” means Control and Safety Devices for Automatically Fired Boilers.

“*Appurtenance*” means any item or equipment that is attached to the object and is part of the boiler external piping.

“*ASME*” means the American Society of Mechanical Engineers.

“*Boiler*” means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

“*Boiler external piping*” means all boiler piping and components as set forth in the scope of the edition of ASME B31.1 currently adopted by reference in Chapter 91.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J; or
2. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

“*CFR*” means Code of Federal Regulations.

“*Construction or installation code*” means the applicable standard for construction or installation in effect at the time of installation.

“*CSD-1 report*” means Manufacturer’s/Installing Contractor’s Report for ASME CSD-1.

“*Division*” means the division of labor services, unless another meaning is clear from the context.

“*Electric boiler*” means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

“*Exit*” means a doorway, hallway, or similar passage that will allow free, normally upright unencumbered egress from an area.

“*External inspection*” means a complete examination made of the external surfaces and safety devices while the object is in operation, unless the object is required to be shut down pursuant to 875—subrule 89.3(4).

“*High temperature water boiler*” means a water boiler intended for operations at pressures in excess of 160 psig or temperatures in excess of 250 degrees F.

“*Hot water heating boiler*” means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees F at the boiler outlet.

“*Hot water supply boiler*” means a boiler that:

1. Operates at a pressure not exceeding 160 psig;
2. Furnishes hot water to be used externally to itself; and, either:
 - Bears a National Board “H” stamp and has a temperature less than or equal to 250°F at or near the boiler outlet, or,
 - Bears a National Board “HLW” stamp and has a temperature less than or equal to 210°F at or near the boiler outlet.

“*Installation*” means the process by which an object is connected to a system for operation. This applies to all objects whether they are new, used, or being brought back to service after being removed.

“*Institution of health and custodial care*” means any of the following:

1. A health care facility as defined by Iowa Code section 135C.1;
2. An assisted living program as defined by Iowa Code section 231C.2;
3. A boarding home as defined by Iowa Code section 135O.1;
4. A hospice that offers inpatient services in an institutional setting;
5. Any institution or facility in which persons are housed to receive medical, health, or other care or treatment; or
6. Any other institution or facility in which persons are housed to receive assistance with meeting personal needs or activities of daily living.

A facility or office that provides care and services only on an outpatient basis shall not be an “institution of health and custodial care.”

“*Internal inspection*” means as complete an examination as can be reasonably made of the internal surfaces of an object while it is shut down and access for examination is attained through the removal of any manhole plates, handhole plates, blind flanges, piping spools or fittings attached to the object. A determination that an examination cannot be reasonably made shall not be based on a failure of the owner or user to provide clearance pursuant to rule 875—91.10(89) or on failure of the owner or user to provide for the inspector’s safety and health as described in 875—Chapters 90 and 91.

“*ISO*” means International Standards Organization.

“*Labor commissioner*” means the labor commissioner or the commissioner’s designee.

“*Lap seam crack*” means a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

“*Miniature boiler*” means a boiler that does not exceed a 16-inch inside shell diameter, 20 square feet of heating surface (not applicable to electric boilers), 5 cubic feet of gross volume (exclusive of casing and insulation), and 100 psig maximum allowable working pressure.

“*National Board*” means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of boiler codes. The National Board’s website is nationalboard.org.

“*National Board Inspection Code*” or “*NBIC*” means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

“*Object*” means a boiler or pressure vessel.

“*OEM*” means original equipment manufacturer.

“*Owner or user*” means any person, firm, or corporation legally responsible for the installation, operation, and maintenance of any object within the jurisdiction.

“*Power boiler*” means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

“*Process steam generator*” means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

“*Psig*” means pounds per square inch gage.

“*Relief valve*” means an automatic pressure-relieving device actuated by a static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure and that is used primarily for liquid service.

“*Repair*” means work necessary to return a boiler or pressure vessel to a safe operating condition.

“*Rupture disk device*” means a nonreclosing pressure-relief device actuated by inlet static pressure and designed to function by the bursting of a pressure-containing disk.

“*Safe point of discharge*” means the same as in the National Board Inspection Code: a location that will not cause property damage, cause equipment damage, or create a health or safety threat to personnel in the event of discharge.

“*Safety appliance*” shall include, but not be limited to:

1. Rupture disk device;
2. Safety relief valve;
3. Safety valve;
4. Temperature limit control;
5. Pressure limit control;
6. Gas switch;
7. Air switch; or
8. Any major gas train control.

“*Safety relief valve*” means an automatic, pressure-actuated relieving device suitable for use as a safety or relief valve, depending on application.

“*Safety valve*” means an automatic, pressure-relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. The safety valve is used for gas or vapor service.

“*Special inspection*” means an inspection which is not required by Iowa Code chapter 89.

“*Temperature and pressure relief valve*” means a valve set to relieve at a designated temperature and pressure.

“*Temporary object*” means a boiler, unfired steam pressure vessel, or combination thereof that is not a permanent fixture or part of normal operation of the facility.

“*Unfired steam boiler*” means a vessel or system of vessels intended for operation at a pressure in excess of 15 psig for the purpose of producing and controlling an output of thermal energy.

“*Unfired steam pressure vessel*” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source. “Unfired steam pressure vessel” may include items such as expansion tanks, flash tanks, and condensate return tanks.

“*U.S. customary units*” means feet, pounds, inches and degrees Fahrenheit.

“*Water heater supply boiler*” means a closed vessel in which water is heated by combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressure not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees F.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 9790B, IAB 10/5/11, effective 11/9/11; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 0739C, IAB 5/15/13, effective 6/19/13; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 5159C, IAB 8/26/20, effective 9/30/20; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.3(89) Iowa identification numbers. All objects shall be identified by an Iowa identification number. State inspectors and special inspectors shall assign identification numbers as directed by the division to all jurisdictional objects that lack numbers. Identification numbers shall be attached in plain view to the object using one of the following methods:

1. A yellow sticker 2 inches by 3 inches affixed to the object and bearing the number.
2. A metal tag 1 inch by 2½ inches affixed to the object and bearing the number.
3. Numbers at least 5/16 of an inch high and stamped directly on the object.

875—90.4(89) National Board registration. Rescinded IAB 11/18/09, effective 1/1/10.

875—90.5(89) Preinspection owner or user preparation.

90.5(1) *Preparation of objects.* Each owner or user shall ensure that each object covered by Iowa Code chapter 89 is prepared for inspection pursuant to this rule.

90.5(2) *Confined space and lockout, tagout procedures.*

a. It is the responsibility of the owner or user to assess all objects for compliance with the confined space and lockout, tagout standards pursuant to 29 CFR 1910.146 and 1910.147. If an object is a non-permit-required confined space or a permit-required confined space as defined by 29 CFR 1910.146, the owner or user must comply with all applicable requirements of 29 CFR 1910.146 and 1910.147 in preparing the object for inspection.

b. It is the duty of the owner or user to inform any inspector of the owner's or user's confined space entry and lockout, tagout procedures and supply to the inspector all information necessary to assess whether the confined space is safe for entry. It is the right of an inspector to verify any of the information supplied.

c. If the requirements of 29 CFR 1910.146 and 1910.147 are not met, the inspector shall not enter the space. If there is a breach of the procedure or the procedure is inconsistent with 29 CFR 1910.146 or 1910.147, the inspection process shall cease until the space is reassessed and determined to be safe or the procedure is rewritten in a manner consistent with the standards. No inspector shall violate the owner's or user's confined space or lockout, tagout procedures in making an inspection.

d. The owner or user shall have all objects locked and tagged, as applicable, prior to the inspector's entry for inspection or testing.

e. For entry into a permit-required confined space, the owner or user shall provide the necessary equipment such as air monitors and a qualified attendant who has received all the information relevant to the entry.

90.5(3) *Hydrostatic tests.* The owner or user shall prepare for and apply a hydrostatic test, whenever necessary, on the date specified by the inspector, which date shall be not less than seven days after the date of notification.

90.5(4) *Boilers.* A boiler shall be prepared for internal inspection in the following manner:

a. Fluid shall be drawn off and the boiler washed thoroughly.

b. Manhole and handhole plates, washout plugs and inspection plugs in water columns shall be removed as required by the inspector. The furnace and combustion chambers shall be thoroughly cooled and cleaned.

c. All grates of internally fired boilers shall be removed.

d. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

e. Low-water fuel cutoff controls shall be opened or removed to allow for visual inspection.

90.5(5) *Pressure vessels.* The extent of inspection preparation for a pressure vessel will vary. If the inspection is to be external only, advance preparation is not required other than to afford reasonable access to the vessel. For combined internal and external inspections of small vessels of simple construction handling air, steam, nontoxic or nonexplosive gases or vapors, minor preparation is required, including affording reasonable means of access and removing manhole plates and inspection openings. In other cases, preparation shall include removing the internal fittings and appurtenances to permit satisfactory inspection of the interior of the vessel if required by the inspector.

90.5(6) *Removal of covering or brickwork to permit inspection.* If the object is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other form of casing or housing shall be removed to permit reasonable inspection of the seams and so that the size of rivets, pitch of the rivets, and other data necessary to determine the safety of the object may be obtained, providing the information cannot be determined by other means. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

90.5(7) *Improper preparation for inspection.* If an object has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for hydrostatic tests as set

forth in this chapter, the inspector may decline to make the inspection or test, and the inspection certificate shall be withheld until the owner or user complies with the requirements.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

875—90.6(89) Inspections.

90.6(1) General. All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code (2021), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

90.6(2) Schedule.

a. All required inspections must be performed according to the schedule set forth in Iowa Code section 89.3, unless an exception is set forth in this rule.

b. Except for inspections of unfired steam pressure vessels operating in excess of 15 pounds per square inch and low pressure steam boilers, each certificate inspection must be performed within a 60-day period prior to the expiration date of the operating certificate. Modification of this 60-day period will be permitted only upon written application showing just cause for waiver of the 60-day period.

c. Special inspections may be conducted when deemed necessary by the division and the object's owner or user.

90.6(3) Inspections conducted by special inspectors. Special inspectors shall provide copies of the completed report to the insured and to the division within 14 days of completing the inspection. The reports shall list all noteworthy conditions that are within the scope of Iowa Code chapter 89, all recommendations, and all requirements. If the special inspector has not provided the results of the inspection within the time frame identified, the division may conduct the inspection.

90.6(4) Type of inspection. The inspection shall be an internal inspection when required; otherwise, it shall be as complete an external inspection as possible. Conditions including, but not limited to, the following may also be the basis for an internal inspection:

- a. Visible metal or insulation discoloration due to excessive heat.
- b. Visible distortion of any part of the pressure vessel.
- c. Visible leakage from any pressure-containing boundary.
- d. Any operating records or verbal reports of a vessel being subjected to pressure above the nameplate rating or to a temperature above or below the nameplate design temperature.
- e. A suspected or known history of internal corrosion or erosion.
- f. Evidence or knowledge of a vessel having been subjected to external heat from a fire.
- g. A welded repair not documented as required.
- h. Evidence of an accident, incident or malfunction that could affect or may have resulted from a problem with the object's integrity.

90.6(5) Internal inspections for unfired steam pressure vessels operating at more than 15 pounds per square inch. The commissioner may require an internal inspection of an unfired steam pressure vessel operating in excess of 15 psi when an inspector observes any deviation from these rules, Iowa Code chapter 89, the construction code, the installation code, or the National Board Inspection Code.

90.6(6) Inspection of inaccessible parts. When, in the opinion of the inspector, as a result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and thickness measurement of any part of the vessel. Nondestructive examination is acceptable.

90.6(7) Imminent danger.

a. If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be made to the owner or user through contact information available in the division's records or by posting a notice at the location of the object.

b. Upon such notice, the owner or user shall immediately take the necessary steps to cease operation of the object. All forms of energy to and from the object must be isolated and physically locked in the closed position.

c. A division inspector will verify that the object is no longer in operation and all forms of energy to and from the object have been isolated and are locked in the closed position.

d. The object shall not be used until all necessary repairs have been completed, the object has passed inspection, all repair documentation is complete, and the division reviews and approves the documentation.

e. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code sections 89.11 and 89.13.

90.6(8) *Internal inspections on a four-year cycle based on process safety management compliance.* The owner shall demonstrate compliance with the requirements set forth in Iowa Code section 89.3(5) “a”(4)(b) by annually submitting to the labor commissioner a notarized affidavit. The affidavit shall be in a format approved by the labor commissioner and shall be signed by the owner or an officer of the company.

90.6(9) *Internal inspection on a four-year cycle for utility objects.* An object that meets the criteria of this subrule shall be inspected internally at least once every four years and externally every year. If at any time the object or the owner no longer meets the criteria of this subrule, internal inspections shall be performed on a two-year cycle.

a. The object is owned and operated by an electric public utility subject to rate regulation under Iowa Code chapter 476.

b. The object and the owner meet all the requirements for a two-year internal inspection interval as set forth in Iowa Code section 89.3, subsection 4.

c. If the object is shut down for a period sufficient to allow safe entry, and more than two years have passed since the last internal inspection, the owner shall notify the labor commissioner of the outage and shall schedule an internal inspection.

d. If the labor commissioner determines that an earlier inspection is necessary, the owner shall prepare the object for inspection pursuant to rule 875—90.5(89).

90.6(10) *Request for extended inspection interval.*

a. Owners of objects covered under Iowa Code section 89.3(4) “a” may apply for an extended internal inspection interval of up to seven years.

b. The application for an extended internal inspection interval shall include the following information submitted to the director:

(1) The name and contact information of the requestor.

(2) The state identification number of the object.

(3) The interval requested with supporting reasons.

(4) An affidavit affirming the following:

1. Compliance with the process safety management standard contained in 29 CFR §1910.119.

2. The object is included as process safety management process equipment in the owner’s process safety management program.

3. The object meets the requirements contained in the National Board Inspection Code.

4. The object is fit for service based on the year of fabrication and the estimated service life of the object as determined by Part 2 of the National Board Inspection Code.

5. Practices have been implemented for managing consumable items and ancillary equipment of the object.

(5) The following supporting records:

1. Inspection records of the boiler and ancillary equipment for the prior five years.

2. The most recent Report of Fitness for Service Assessment.

3. Every Form R-1 Report of Repair and Form R-2 Report of Alterations for the prior five years.

(6) A request for an informal conference, if desired.

c. The director will consider, among other things, whether the object meets the requirements contained in the National Board Inspection Code, whether the object is fit for service based on the year of fabrication, the estimated service life of the object as determined by Part 2 of the National Board Inspection Code, and whether the owner has implemented practices for managing consumable items and ancillary equipment of the object.

d. The director may grant an extended inspection interval.

(1) An extended inspection interval lasts until the next inspection, at which time the owner of the object may again apply for an extension.

(2) The owner shall promptly report to the department's boiler and pressure vessel unit any unscheduled shutdowns, significant incidents, near misses, and any other occurrences that might reasonably require reinspection before the extended date. Should the occurrence reasonably require it, or if any such event is not reported within ten days of occurrence, the director may revoke the extended inspection interval.

e. If the director does not intend to grant the extension, the director will give the applicant a Notice of Intent to Deny Extended Inspection Interval, granting ten days for the applicant to provide additional reasons and evidence why the interval should be extended.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 1189C, IAB 11/27/13, effective 1/1/14; ARC 1634C, IAB 10/1/14, effective 11/5/14; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 2403C, IAB 2/17/16, effective 4/1/16; ARC 4977C, IAB 3/11/20, effective 4/15/20; ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6135C, IAB 1/12/22, effective 2/16/22; ARC 7616C, IAB 2/7/24, effective 3/13/24]

875—90.7(89) Fees.

90.7(1) *Special inspector commission fee.* A \$55 fee shall be paid annually to the commissioner to obtain a special inspector commission pursuant to Iowa Code section 89.7.

90.7(2) *Certificate fee.* A \$40 fee shall be paid for each one-year certificate, an \$80 fee shall be paid for each two-year certificate, and a \$160 fee shall be paid for each four-year certificate.

90.7(3) *Fees for inspection.* An inspection fee for each object inspected by a division inspector shall be paid by the appropriate party as follows:

a. A \$55 fee for each water heater supply boiler.

b. A \$95 fee for each boiler, other than a water heater supply boiler, having a working pressure up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.

c. A \$215 fee for each boiler, other than a water heater supply boiler, having a working pressure in excess of 450 pounds per square inch and generating in excess of 100,000 pounds of steam per hour.

d. A \$55 fee for each pressure vessel, such as steam stills, tanks, jacket kettles, sterilizers and all other reservoirs having a working pressure of 15 pounds or more per square inch.

e. An additional fee will be charged if, upon the request of an owner or user, the labor commissioner agrees to any non-routine schedule for an inspection outside of normal business hours, a special inspection, or a site visit. The additional fee will be calculated at a rate of \$200 per hour, including travel time, with a minimum charge of \$400.

f. If a boiler or pressure vessel has to be reinspected, there shall be another inspection fee as specified above.

90.7(4) *Fees for attempted inspections.* A \$35 fee shall be charged for each attempt by a division inspector to conduct an inspection which is not completed through no fault of the division.

[ARC 7863B, IAB 6/17/09, effective 7/1/09; ARC 8081B, IAB 8/26/09, effective 9/30/09; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 1422C, IAB 4/16/14, effective 5/21/14; ARC 4733C, IAB 10/23/19, effective 11/27/19]

875—90.8(89) Certificate. No boiler or pressure vessel shall be operated without a current, valid certificate to operate. A certificate to operate shall not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. The current certificate to operate or a copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.

[ARC 1964C, IAB 4/15/15, effective 5/20/15]

875—90.9(89,252J,272D) Special inspector commissions.

90.9(1) *Definition of "reputable insurance company."* As used in this rule, "reputable insurance company" means a company recognized by the Iowa insurance division as a licensed insurer, a risk retention group, an alien surplus lines insurer, or a surplus lines insurer.

90.9(2) *Application.*

a. A person applying for a new or renewed commission shall complete, sign, and submit to the division with the required fee the form entitled “Application for Boiler and Pressure Vessel Special Inspector Commission” provided by the division. Additionally, the applicant shall submit a copy of the applicant’s current National Board work card with each application.

b. An applicant for a new Iowa special inspector commission shall schedule a meeting with the chief boiler inspector to discuss Iowa law and the responsibilities, expectations, and requirements for a special inspector.

90.9(3) *Expiration.*

a. The commission is for no more than one year and ceases when the special inspector leaves employment with the insurance company, or when the commission is suspended or revoked by the labor commissioner. Each commission shall expire no later than December 31 of each year.

b. Notwithstanding paragraph 90.9(3)“*a*” and in order to transition from an expiration date of June 30 to an expiration date of December 31, a commission issued between June 1, 2022, and November 30, 2022, shall expire on December 31, 2023.

90.9(4) *Changes.* The special inspector shall notify the division at the time any of the information on the form or attachments changes.

90.9(5) *Denials.* The labor commissioner may refuse to issue or renew a special inspector’s commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules 90.9(7) to 90.9(9).

90.9(6) *Investigations.* Investigations shall take place at the time and in the places the labor commissioner directs. The labor commissioner may investigate for any reasonable cause. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

90.9(7) *Reasons for probation.* The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector does not represent a reputable insurance company or the special inspector filed inaccurate reports.

90.9(8) *Reasons for suspension.* The labor commissioner may issue a notice of commission suspension when an investigation reasonably reveals the following:

- a.* The special inspector failed to submit and report inspections on a timely basis;
- b.* The special inspector abused the special inspector’s authority;
- c.* The special inspector misrepresented self as a state inspector or a state employee;
- d.* The special inspector used commission authority for inappropriate personal gain;
- e.* The special inspector failed to follow the division’s rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f.* The special inspector committed numerous violations as described in subrule 90.9(7);
- g.* The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one’s self or another;
- h.* The National Board revoked or suspended the special inspector’s work card;
- i.* The division received a certificate of noncompliance;
- j.* The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs “*a*” to “*h*” of this subrule; or
- k.* The special inspector does not represent a reputable insurance company.

90.9(9) *Reasons for revocation.* The labor commissioner may issue a notice of revocation of a special inspector’s commission when an investigation reveals any of the following:

- a.* The special inspector filed a misleading, false or fraudulent report;
- b.* The special inspector failed to perform a required inspection;
- c.* The special inspector failed to file a report or filed a report which was not in accordance with the provisions of applicable standards;
- d.* The special inspector failed to notify the division in writing of any accident involving an object;
- e.* The special inspector committed repeated violations as described in subrule 90.9(8);
- f.* The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one’s self or another;

- g. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs “a” to “f” of this subrule;
- h. The National Board revoked or suspended the special inspector’s work card;
- i. The division received a certificate of noncompliance; or
- j. The special inspector does not represent a reputable insurance company.

90.9(10) Procedures. The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J or 272D shall apply.

a. *Notice of actions.* The labor commissioner shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A. A copy shall be sent to the insurance company employing the special inspector.

b. *Contested cases.* The special inspector shall have 20 days to file a written notice of contest with the labor commissioner. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.

c. *Hearing procedures.* The hearing procedures in 875—Chapter 1 shall govern.

d. *Emergency suspension.* Pursuant to Iowa Code section 17A.18A, if the labor commissioner finds that public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector’s commission may be summarily suspended.

e. *Probation period.* A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

f. *Suspension period.* A special inspector’s commission may be suspended up to five years for each incident causing a suspension.

g. *Revocation period.* A special inspector’s commission that has been revoked shall not be reinstated for five years.

h. *Concurrent actions.* Multiple actions may proceed at the same time against any special inspector.

i. *Revoked or suspended commissions.* Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall forfeit the special inspector’s commission card to the labor commissioner.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 4734C, IAB 10/23/19, effective 11/27/19; ARC 5159C, IAB 8/26/20, effective 9/30/20; ARC 5945C, IAB 10/6/21, effective 11/10/21]

875—90.10(89) Quality reviews, surveys and audits.

90.10(1) An entity that manufactures or repairs boilers, pressure vessels or related equipment may request quality reviews, surveys or audits from certifying organizations such as the ASME or the National Board. The division is authorized to conduct the quality reviews, surveys or audits. If the division performs the service, the manufacturer or repairer shall pay all applicable expenses.

90.10(2) Quality reviews, surveys and audits for certification to the National Board or ASME standards shall be conducted only by a person or organization designated by the labor commissioner. Any person or organization seeking this designation on behalf of the division shall provide documented evidence of training, examination, experience, and certification for the type of reviews, surveys and audits to be performed. The labor commissioner shall have final authority to determine qualifications and designations.

a. *Assessing quality programs.* The division recognizes the ASME and the National Board as qualified designees for conducting quality reviews, surveys and audits that lead to ASME or National Board program certification.

b. *ISO 9000 assessments.* The division recognizes the ASME and the National Board:

- (1) To be acceptable ISO 9000 registrars of quality systems for boilers and pressure vessels and the related pressure-technology equipment industry;
- (2) To certify auditors and lead auditors to the requirements of ISO 10011-2 1991(E), Annex A; and
- (3) To conduct ISO 9000 assessments for the boiler, pressure vessel, and related pressure-technology equipment industry.

875—90.11(89) Reporting requirements.

90.11(1) *Control and safety device reports.* Documentation required by this subrule shall be kept on site and shall be available for inspection by the division or special inspectors. The owner or user shall mail a copy of the documentation required by this subrule to the division.

a. The requirements of this subrule do not apply to:

(1) Rescinded IAB 7/18/18, effective 9/1/18.

(2) An object within the scope of 875—Chapter 96;

(3) A hot water supply boiler covered by ASME Section IV, Part HLW; or

(4) A boiler with a fuel input rating greater than or equal to 12,500,000 Btu per hour, falling within the scope of NFPA 85, Boiler and Combustion Systems Hazards Code.

b. The installer shall complete a CSD-1 report for each installed object.

c. A person who installs a new burner, new gas train, or new controller on an object shall complete a CSD-1 report.

d. A person who replaces a part or component of an object shall complete the relevant portions of the CSD-1 report unless the replacement satisfies the design specifications. A copy of an invoice containing the same information as the relevant portions of the CSD-1 report is an acceptable alternative.

90.11(2) *Reporting repairs and alterations.* If the National Board Inspection Code requires that an R-1 Report of Repair or an R-2 Report of Alteration be filed with the National Board, a copy of the National Board form must be simultaneously filed with the labor commissioner.

90.11(3) *Reporting explosions and other incidents.*

a. The following definitions apply to this subrule.

“*Incident*” means the explosion of a covered object or other failure of a component of a covered object causing injury or acute illness.

“*Injury*” means a personal injury requiring professional medical care or causing disability exceeding one day.

b. The owner or user of a covered object shall notify the commissioner of an incident. A special inspector investigating an incident shall notify the owner or user of this reporting requirement.

c. Incident reports shall be made by calling (515)725-5609 or (515)725-5610. If the incident occurs during normal division operating hours, notification shall occur before close of business on that day. If the incident occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

d. At the request of the commissioner, a person who submits a report pursuant to this subrule shall also submit a written report that includes the state identification number of the object, name of the owner of the object, and description of the incident.

e. The removal of any part of the damaged object from the premises is forbidden until permission to do so is granted by the state inspector or special inspector who investigated the incident.

f. When an incident involves the failure or destruction of any part of the object, the use of the object is forbidden until it has been made safe and it has passed an inspection by the state inspector or special inspector who investigated the incident.

[ARC 2589C, IAB 6/22/16, effective 7/27/16; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 4733C, IAB 10/23/19, effective 11/27/19; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.12(89) Publications available for review. Pursuant to Iowa Code section 89.5(3), the standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.13(89) Notice prior to installation. Written notice of intent to install objects subject to the jurisdiction of Iowa Code chapter 89 shall be provided to the labor commissioner at least ten days before installation. Written notice shall be accomplished by completing and submitting to the labor commissioner either:

1. The form designated by the labor commissioner, or

2. The National Board's Boiler Installation Report, I-1.

875—90.14(89) Temporary objects.

90.14(1) Certificate to operate. A certificate to operate a temporary object shall expire one year from the date of issuance or when the temporary object is disconnected.

90.14(2) Inspections.

a. An internal inspection and hydrostatic test pursuant to the National Board Inspection Code shall be performed on site at a new location before a temporary object is started up. Once a temporary object has been placed into normal operation, an external operating inspection shall be performed.

b. An inspection on a temporary object that remains at the same location and is in continuous service longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—90.15(89) Conversion of a power boiler to a low-pressure boiler. The following requirements apply to the conversion of a power boiler to a low-pressure boiler. The owner shall comply with the requirements of subrule 90.15(1) for each conversion. In addition, the owner shall comply with the requirements of subrule 90.15(2) if the converted object will be located outside of a place of public assembly or with the requirements of subrule 90.15(3) if the converted object will be located in a place of public assembly.

90.15(1) General requirements.

a. The owner shall provide to the labor commissioner written notice of intent to convert a power boiler to a low-pressure boiler prior to conversion. The required form for a notice of conversion is available at iowaboilers.gov. At a minimum the notice shall contain the following:

- (1) Address, uses, and owner of the building where the boiler is located.
- (2) The Iowa identification number assigned to the boiler.
- (3) Name and contact information for the person completing the notice.
- (4) Name and contact information for the contractor or other person planning to perform the conversion.

b. Pressure controls shall not exceed 14 pounds per square inch.

c. All boiler controls shall comply with ASME CSD-1.

d. Safety valves and safety relief valves shall be manufactured in accordance with a national or international standard.

e. One or more spring-pop safety valves meeting the following requirements shall be installed on each steam boiler:

- (1) The valve shall be adjusted and sealed to discharge at a pressure not to exceed 15 psig.
- (2) The valve capacity shall be certified by the National Board.

f. The converted boiler shall be subject to post-conversion external inspection to ensure that the requirements of this rule are met.

90.15(2) Boilers located outside places of public assembly. A power boiler that was converted to a low-pressure boiler and that is located outside of a place of public assembly shall not be converted back to a power boiler unless the following requirements are met:

a. The owner shall notify the labor commissioner at least ten days prior to converting the boiler.

b. The owner shall comply with the editions of ASME Section I and CSD-1 in effect at the time of the second conversion.

c. The owner shall comply with the version of 875—Chapter 92 in effect at the time of the second conversion.

90.15(3) Boilers located in places of public assembly. A power boiler converted to a low-pressure boiler that is located in a place of public assembly shall comply with 875—Chapter 94.

[ARC 9232B, IAB 11/17/10, effective 12/22/10; ARC 3635C, IAB 2/14/18, effective 3/21/18]

875—90.16(89) Definitions regarding objects. The following definitions shall govern classification and status of objects in Iowa. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Active status*” means an object is physically attached to the system and any forms of potential energy. The object may or may not be in operation.

“*Exempt status*” means an object that is not required to be inspected pursuant to Iowa Code chapter 89.

“*Inactive status*” means the object is no longer in operation and all forms of potential energy have been disconnected in a manner that creates an air gap.

“*Modular boiler*” means a steam or hot water heating assembly consisting of a group of individual boilers called modules intended to be installed as a unit with no intervening stop valves. Modules may be under one jacket or individually jacketed. The individual modules shall be limited to a maximum input of 400,000 Btu/hour (117kW) (gas), 3 gph (11.4 L/h) (oil), or 115kW (electric).

“*Scrapped status*” means the object has been permanently destroyed and is no longer physically at the location.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, and 272D.

[Filed emergency 12/26/97 after Notice 11/19/97—published 1/14/98, effective 1/1/98]

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[Filed emergency 9/6/05—published 9/28/05, effective 9/21/05]

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06][◇]

[Filed 11/30/07, Notice 10/24/07—published 12/19/07, effective 1/23/08]

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[Filed Emergency ARC 7863B, IAB 6/17/09, effective 7/1/09]

[Filed ARC 8081B (Notice ARC 7865B, IAB 6/17/09), IAB 8/26/09, effective 9/30/09]

[Filed ARC 8283B (Notice ARC 8082B, IAB 8/26/09), IAB 11/18/09, effective 1/1/10]

[Filed ARC 9082B (Notice ARC 8694B, IAB 4/21/10), IAB 9/22/10, effective 10/27/10]

[Filed ARC 9232B (Notice ARC 9087B, IAB 9/22/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 9790B (Notice ARC 9511B, IAB 5/18/11), IAB 10/5/11, effective 11/9/11]

[Filed ARC 0319C (Notice ARC 0207C, IAB 7/11/12), IAB 9/5/12, effective 10/10/12]

[Filed ARC 0416C (Notice ARC 0322C, IAB 9/5/12), IAB 10/31/12, effective 12/5/12]

[Filed ARC 0739C (Notice ARC 0647C, IAB 3/20/13), IAB 5/15/13, effective 6/19/13]

[Filed ARC 1189C (Notice ARC 1015C, IAB 9/18/13), IAB 11/27/13, effective 1/1/14]

[Filed ARC 1422C (Notice ARC 1333C, IAB 2/19/14), IAB 4/16/14, effective 5/21/14]

[Filed ARC 1634C (Notice ARC 1550C, IAB 7/23/14), IAB 10/1/14, effective 11/5/14]

[Filed ARC 1964C (Notice ARC 1798C, IAB 12/24/14), IAB 4/15/15, effective 5/20/15]

[Filed ARC 2403C (Notice ARC 2251C, IAB 11/25/15), IAB 2/17/16, effective 4/1/16]

[Filed ARC 2589C (Notice ARC 2419C, IAB 2/17/16), IAB 6/22/16, effective 7/27/16]

[Filed ARC 3635C (Notice ARC 3504C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 3903C (Notice ARC 3807C, IAB 5/23/18), IAB 7/18/18, effective 9/1/18]

[Filed ARC 4733C (Notice ARC 4564C, IAB 7/31/19), IAB 10/23/19, effective 11/27/19]

[Filed ARC 4734C (Notice ARC 4565C, IAB 7/31/19), IAB 10/23/19, effective 11/27/19]

[Filed ARC 4977C (Notice ARC 4863C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]

[Filed ARC 5159C (Notice ARC 4940C, IAB 2/26/20), IAB 8/26/20, effective 9/30/20]

[Filed ARC 5945C (Notice ARC 5595C, IAB 5/5/21), IAB 10/6/21, effective 11/10/21]

[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

[Filed ARC 6135C (Notice ARC 5979C, IAB 10/20/21), IAB 1/12/22, effective 2/16/22]

[Filed ARC 7616C (Notice ARC 7143C, IAB 12/13/23), IAB 2/7/24, effective 3/13/24]

◇ Two or more ARCs

¹ Date corrected IAC Supp. 3/26/08

CHAPTER 91
GENERAL REQUIREMENTS FOR ALL OBJECTS

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Ch 203]

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

875—91.1(89) Codes and code cases adopted by reference.

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2021) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2021) except for objects that meet one of the following criteria:

- a. An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b. A miniature boiler installed before March 31, 1967;
- c. A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- d. A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

91.1(2) *ASME code cases.* If the manufacturer of an object listed ASME Code Case 2668-1, 2760, 2764-1, or 2869 on the manufacturer's data report for the object and the object is otherwise in compliance with all applicable provisions, the object is in compliance with these rules.

91.1(3) *Inspection code adopted by reference.* The National Board Inspection Code (2021) is adopted by reference, and installations, alterations, and repairs after February 16, 2022, shall comply with it.

91.1(4) *Electric code adopted by reference.* The National Electrical Code, NFPA 70 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(5) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2020), and the Building Services Piping Code, ASME B31.9 (2020), are adopted by reference, and installations after February 16, 2022, shall comply with them up to and including the first valve.

91.1(6) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2021) is adopted by reference, and installations after December 1, 2022, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

91.1(7) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2021) are adopted by reference, and installations after February 16, 2022, shall comply with them.

91.1(8) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2020), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(9) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2021), is adopted by reference, and installations after February 16, 2022, shall comply with it.

91.1(10) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2020), is adopted by reference, and installations after April 15, 2020, shall comply with it.

91.1(11) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2019), is adopted by reference, and installations after April 15, 2020, shall comply with it.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 8590B, IAB 3/10/10, effective 4/14/10; ARC 9232B, IAB 11/17/10, effective 12/22/10; ARC 9790B, IAB 10/5/11, effective 11/9/11; ARC 0319C, IAB 9/5/12, effective 10/10/12; ARC 0416C, IAB 10/31/12, effective 12/5/12; ARC 1011C, IAB 9/18/13, effective 10/31/13; ARC 1964C, IAB 4/15/15, effective 5/20/15; ARC 2403C, IAB 2/17/16, effective 4/1/16; ARC 2589C, IAB 6/22/16, effective 7/27/16; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 3903C, IAB 7/18/18, effective 9/1/18; ARC 4303C, IAB 2/13/19, effective 3/20/19; ARC 4977C, IAB 3/11/20, effective 4/15/20; ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6135C, IAB 1/12/22, effective 2/16/22; ARC 6681C, IAB 11/30/22, effective 1/4/23]

875—91.2(89) Safety appliance.

91.2(1) No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection.

91.2(2) An object shall not be operated unless all required and installed safety appliances are properly functional and operational.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.3(89) Pressure-reducing valves. Rescinded ARC 3903C, IAB 7/18/18, effective 9/1/18.

875—91.4(89) Blowoff equipment. The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit. If the local jurisdiction has a temperature limit of less than 150 degrees Fahrenheit, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—91.5(89) Location of discharge piping outlets. The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall comply with the following:

91.5(1) The discharge piping shall terminate at a safe point of discharge.

91.5(2) When the safety valve or temperature and pressure relief valve discharge is piped away from the object to a safe point of discharge, provision shall be made for properly draining the piping.

91.5(3) The size of the discharge piping shall not be reduced from the size of the relief valve.

91.5(4) All discharge piping shall be comprised of appropriate metallic material identified in ASME Section II.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.6(89) Pipe, valve, and fitting requirements. Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules. Dielectric fittings shall be used where dissimilar metals are joined.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.7(89) Repairs and alterations to unfired steam pressure vessels. No single repair of an unfired steam pressure vessel shall involve replacement of more than 50 percent of the OEM's pressure-retaining boundary.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.8(89) Plugging boiler tubes. This rule does not apply to tubes in headers of economizers, evaporators, superheaters, or reheaters.

91.8(1) General requirements.

a. Leaky tubes shall be replaced or plugged.

b. Tube plugs shall be made of a material which is compatible with the material of the boiler tube being plugged and shall be welded into place or manufactured to be expanded into the tube sheet or drum.

c. The maximum number of tubes that may be plugged shall be the lesser number specified by the OEM or an engineer experienced in boiler design.

d. Documentation of the maximum number of tubes that may be plugged shall be kept on site, and a copy shall be supplied to the division of labor services by either mail or email.

91.8(2) Fire tube boilers.

a. A tube that is adjacent to a plugged tube shall not be plugged.

b. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.

91.8(3) *Water tube boilers, unfired boilers, or process steam generators.* Water wall tubes that form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler shall not be plugged.

[ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6681C, IAB 11/30/22, effective 1/4/23]

875—91.9(89) Boiler door latches. Rescinded ARC 0319C, IAB 9/5/12, effective 10/10/12.

875—91.10(89) Equipment room. This rule applies to existing and new installations except as noted in subrule 91.10(1).

91.10(1) *Clearances.*

a. This paragraph applies to objects installed after December 1, 2022. Minimum clearance on all sides of objects shall be 36 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 36 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

b. This paragraph applies to all objects installed after December 1, 2021, and before December 1, 2022. All objects shall be installed with the clearances identified in NBIC Part 1.

c. This paragraph applies to objects installed after September 20, 2006, and before December 1, 2021. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

d. All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

91.10(2) *Condition of the equipment room.*

a. The roof, walls and floor of the equipment room shall be free from leaks and structurally sound.

b. The equipment room shall have drainage adequate to remove standing water from the floor.

c. The equipment room shall be free from materials that obstruct access to the objects, their setting, or operation.

d. Storage of flammable material or gasoline-powered equipment in the equipment room is prohibited.

91.10(3) *Exit from equipment room.* This subrule shall apply to an equipment room exceeding 500 square feet of floor area, containing at least one object, and containing fuel-burning equipment with at least a combined capacity of 1,000,000 Btu per hour or the equivalent electrical heat input. Two means of exit located remotely from one another shall be provided on each elevation for covered equipment rooms. A platform at the top of a single object or other equipment is not considered an elevation.

91.10(4) *Carbon monoxide detector or alarm.* The owner or user shall install and maintain a carbon monoxide detector or alarm in an equipment room where one or more fuel-fired objects are located in accordance with the detector or alarm manufacturer's recommendations.

[ARC 5977C, IAB 10/20/21, effective 11/24/21; ARC 6681C, IAB 11/30/22, effective 1/4/23]

875—91.11(89) Fall protection. The owner or user shall provide safe access to object parts over four feet high consistent with 29 CFR Subpart D, Walking-Working Surfaces, and 29 CFR 1910.140, Personal Fall Protection Systems.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.12(89) Exit from rooms containing objects. Rescinded ARC 5977C, IAB 10/20/21, effective 11/24/21.

875—91.13(89) Air and ventilation.

91.13(1) Notice concerning other rules. The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

91.13(2) Documentation. Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

91.13(3) National combustion air standards.

a. Installations. Installations shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

b. Existing objects. An adequate supply of combustion air shall be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance with this rule. Earlier versions of Iowa's combustion air rule are available from the board's staff upon request.

91.13(4) Iowa combustion air standard. A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than shown above.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3635C, IAB 2/14/18, effective 3/21/18; ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—91.14(89) Condensate return tank. Condensate return tanks shall be equipped with at least two vents or a vent and overflow pipe to protect against a loose float plugging a single connection.

875—91.15(89) Conditions not covered. Any condition not governed by these rules shall be governed by the construction or installation code.

875—91.16(89) Nonstandard objects. Rescinded IAB 3/12/08, effective 4/16/08.

875—91.17(89) English language and U.S. customary units required. All documentation supplied for the unit including but not limited to the manufacturers' data report, drawings, parts lists, installation manuals, and operating manuals shall be in English, and all measurements shall be in U.S. customary units. All pressure gages, thermometers and other controls and safety devices shall also be in U.S. customary units.

875—91.18(89) National Board registration. Except for cast iron boilers and cast aluminum boilers, all objects shall be registered with the National Board.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.19(89) ASME stamp. All objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3903C, IAB 7/18/18, effective 9/1/18]

875—91.20(89) CSD-1 reports and related documentation. Rescinded ARC 2589C, IAB 6/22/16, effective 7/27/16.

These rules are intended to implement Iowa Code chapter 89.

[Filed emergency 12/26/97 after Notice 11/19/97—published 1/14/98, effective 1/1/98]

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[Filed ARC 8283B (Notice ARC 8082B, IAB 8/26/09), IAB 11/18/09, effective 1/1/10]

[Filed ARC 8590B (Notice ARC 8391B, IAB 12/16/09), IAB 3/10/10, effective 4/14/10]

[Filed ARC 9232B (Notice ARC 9087B, IAB 9/22/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 9790B (Notice ARC 9511B, IAB 5/18/11), IAB 10/5/11, effective 11/9/11]

[Filed ARC 0319C (Notice ARC 0207C, IAB 7/11/12), IAB 9/5/12, effective 10/10/12]

[Filed ARC 0416C (Notice ARC 0322C, IAB 9/5/12), IAB 10/31/12, effective 12/5/12]

[Filed ARC 1011C (Notice ARC 0817C, IAB 7/10/13), IAB 9/18/13, effective 10/31/13]

[Filed ARC 1964C (Notice ARC 1798C, IAB 12/24/14), IAB 4/15/15, effective 5/20/15]

[Filed ARC 2403C (Notice ARC 2251C, IAB 11/25/15), IAB 2/17/16, effective 4/1/16]

[Filed ARC 2589C (Notice ARC 2419C, IAB 2/17/16), IAB 6/22/16, effective 7/27/16]

[Filed ARC 3635C (Notice ARC 3504C, IAB 12/20/17), IAB 2/14/18, effective 3/21/18]

[Filed ARC 3903C (Notice ARC 3807C, IAB 5/23/18), IAB 7/18/18, effective 9/1/18]

[Filed ARC 4303C (Notice ARC 4179C, IAB 12/19/18), IAB 2/13/19, effective 3/20/19]

[Filed ARC 4977C (Notice ARC 4863C, IAB 1/15/20), IAB 3/11/20, effective 4/15/20]

[Filed ARC 5977C (Notice ARC 5806C, IAB 7/28/21), IAB 10/20/21, effective 11/24/21]

[Filed ARC 6135C (Notice ARC 5979C, IAB 10/20/21), IAB 1/12/22, effective 2/16/22]

[Filed ARC 6681C (Notice ARC 6541C, IAB 9/21/22), IAB 11/30/22, effective 1/4/23]

CHAPTER 92
POWER BOILERS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 1/14/98, see Labor Services[347] Ch 43, 44]
[Prior to 8/16/06, see 875—Chs 204, 205]

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

875—92.1(89) Scope. This chapter applies to all power boilers, and it applies to miniature power boilers installed on and after September 20, 2006. 875—Chapter 93 applies to miniature power boilers installed prior to September 20, 2006.

875—92.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—92.3(89) Codes adopted by reference. Rescinded IAB 11/18/09, effective 1/1/10.

875—92.4(89) Maximum allowable working pressure for steel boilers. This rule applies to power boilers installed prior to July 1, 1983. A boiler constructed with fusion-welded seams and not radiographed and stress relieved during construction shall not be operated at a pressure in excess of 15 pounds per square inch. Boilers with fusion-welded seams that are radiographed and stress relieved and constructed to ASME Code requirements in effect when the boiler was constructed may be operated at a pressure as established in subrules 92.4(1) and 92.4(2).

92.4(1) Calculation. The maximum allowable working pressure on the shell of a boiler shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules. The formula for determining the maximum allowable working pressure is:

$$\frac{TS_tE}{RFS} = \text{Maximum allowable working pressure, psig.}$$

Where:

- TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.
- t = Minimum thickness of shell plates of the weakest course, in inches.
- E = Efficiency of longitudinal joint calculated pursuant to construction or installation code.
- R = Inside radius of the weakest course of the shell or drum, in inches.
- FS = Factor of safety specified in subrule 92.4(2).

92.4(2) Factor of safety.

a. The lowest factor of safety on boilers shall be four, except for horizontal tubular boilers having continuous lap seams more than 12 feet in length where the factor of safety shall be eight.

b. Boilers that are reinstalled and have lap riveted construction or seams of butt and double strap riveted construction shall use ASME Code, Section I (1971).

[ARC 0319C, IAB 9/5/12, effective 10/10/12]

875—92.5(89) Maximum allowable working pressure and temperature for cast iron headers and mud drums. This rule applies to power boilers installed prior to July 1, 1983.

92.5(1) Tube boiler. The maximum allowable working pressure on a watertube boiler, the tubes of which are secured in cast iron or malleable iron headers or which have cast iron mud drums, shall not exceed 160 psig or a temperature of 250° F.

92.5(2) Maximum steam pressure. The maximum steam pressure on any boiler constructed of cast iron in which steam is generated shall be 15 psig.

875—92.6(89) Rivets. This rule applies to power boilers installed prior to July 1, 1983. When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, shall be selected from ASME Code, Section I (1971).

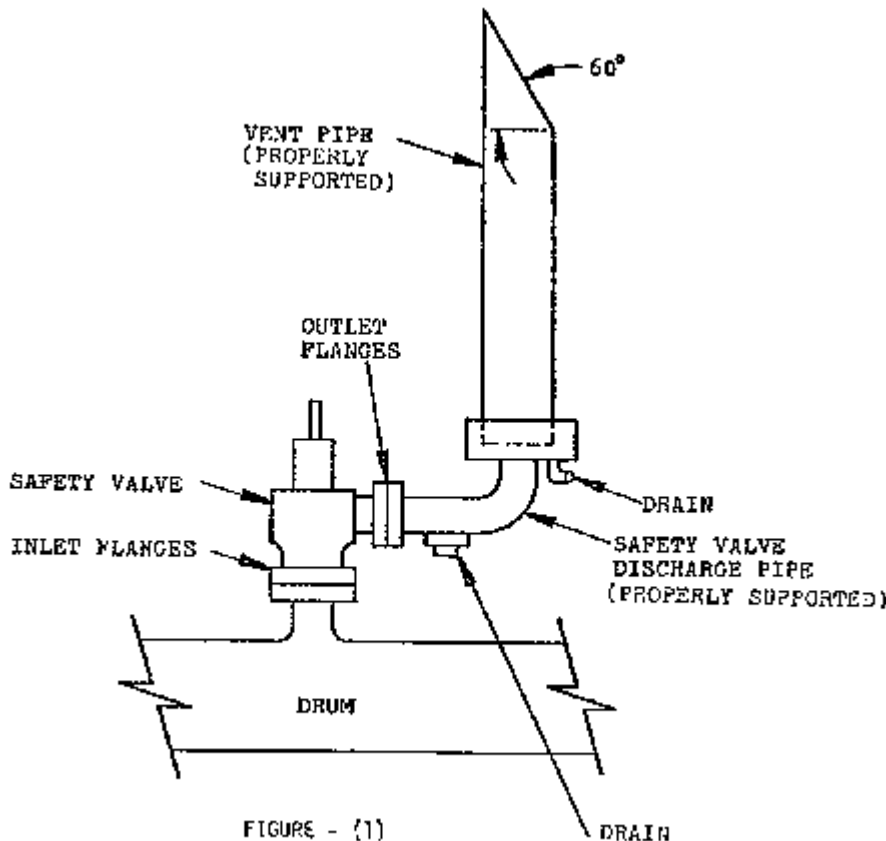
875—92.7(89) Safety valves. This rule applies to power boilers installed prior to July 1, 1983.

92.7(1) The use of weighted-lever safety valves or safety valves having either the seat or disk of cast iron is prohibited. All power boilers shall have direct, springloaded, pop-type safety valves that conform to the construction or installation code.

92.7(2) Each boiler shall have at least one safety valve. All boilers with more than 500 square feet of water heating surface or an electric power input of more than 1100 kilowatts shall have two or more safety valves.

92.7(3) The safety valve or valves shall be connected to the boiler independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings.

92.7(4) No valves of any type shall be placed between the safety valve and the boiler. If an escape pipe is used, no valve shall be placed between the safety valve and the atmosphere. When an escape pipe is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or escape pipe. Any elbow on an escape pipe shall be located close to the safety valve outlet or the escape pipe and shall be anchored and supported securely. All safety valve discharges shall be so located or piped as to be carried away from walkways or platforms. When the safety valve is vented to the outside atmosphere, the second escape pipe shall be arranged as shown in Figure 1.



92.7(5) The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 5

percent above the highest pressure to which any valve is set and in no case to more than 6 percent above maximum allowable working pressure.

92.7(6) One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure at which any valve is set.

92.7(7) When two or more boilers operating at different pressures and safety valve settings are interconnected, the lowest pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

92.7(8) In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not including return traps), safety valves shall not be set at a pressure greater than 94 percent of the lowest pressure maintained in the supply main feeding the boiler.

92.7(9) The minimum safety valve relieving capacity shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and waterwall heating surface as given in the following table. This method shall not be used on electric boilers, waste heat boilers and forced-flow steam generators without a fixed steam and water line.

Minimum Pounds of Steam Per Hour Per Square
Foot of Heating Surface

Boiler Heating Surface:	Firetube Boilers	Watertube Boilers
Hand Fired.....	5	6
Stoker Fired.....	5	8
Oil, Gas, or Pulverized Fuel Fires.....	8	10
Waterwall Heating Surface:		
Hand Fired.....	8	8
Stoker Fired.....	10	12
Oil, Gas, or Pulverized Fuel Fires.....	14	16

92.7(10) Safety valve sizing.

a. When a boiler is fired only by a gas having a heat value not in excess of 200 Btu's per cubic feet the minimum safety valve relieving capacity may be based on the value given for hand-fired boilers above.

b. The minimum safety valve relieving capacity for electric boilers shall be 3½ pounds per hour per kilowatt input.

c. Maximum steaming capacity for safety valves shall be the value stated on design documents or shall be calculated by multiplying horsepower by 34.5.

875—92.8(89) Boiler feeding. This rule applies to power boilers installed prior to July 1, 1983.

92.8(1) Each boiler shall have a feed supply that will permit it to be fed at any time while under pressure. A boiler having more than 500 square feet of water-heating surface shall have at least two means of feeding, one of which shall be an approved feed pump, injector, or inspirator. One source of feed is directly from the water main. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the immediate shutoff of heat input prior to the water level reaching the lowest permissible level. The feedwater shall be introduced into the boiler in such a manner that it will not be discharged close to riveted joints of shell or furnace sheets, directly against surfaces exposed to products of combustion, or directed to surfaces subject to radiation from the fire. The feed piping to the boiler shall be provided with a check valve near the boiler and a stop valve between the check valve and the boiler.

92.8(2) When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line. The stop valve shall be placed between the boiler and the check valve, and both shall be located as close to the boiler as is practicable.

875—92.9(89) Water level indicators. This rule applies to power boilers installed prior to July 1, 1983. Outlet connections that allow the escape of an appreciable amount of steam or water shall not be placed on the piping. However, this rule does not prohibit the installation of damper regulators, feed water regulators, low-water fuel cutouts, drains, or steam gages. The water column shall be provided with a drain of at least 3/4-inch piping size. The drain must have a valve and be piped to a safe location. Each boiler shall have three or more gage cocks located within the visible length of the water glass, except when the boiler has two water glasses located at the same horizontal lines. Only two gage cocks are required on boilers not over 36 inches in diameter with a heating surface not exceeding 100 square feet. Gage cocks are not required on electric boilers.

875—92.10(89) Pressure gages. This rule applies to power boilers installed prior to July 1, 1983. Each boiler shall have a pressure gage so located that the gage is readable. The pressure gage shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gage connected to the steam space or to the water column or its steam connection. A valve or cock shall be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing out. For a steam boiler the gage or connection shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. Pressure gage connections shall be suitable for the maximum allowable working pressure and temperature, but if the temperature exceeds 406° F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon, if used, shall not be less than 1/4-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, they shall not be less than 1/2-inch inside diameter. The minimum size of a siphon, if used, shall be 1/4-inch inside diameter. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1 1/2 times this pressure.

875—92.11(89) Steam stop valves. This rule applies to power boilers installed prior to July 1, 1983. Each steam outlet from a boiler, except safety valve and water-column connections, shall be fitted with a stop valve located as close as practicable to the boiler. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting. When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves having an ample free-blowing drain between them. The discharge of the drain shall be piped clear of the boiler setting. The stop valves shall consist of one automatic nonreturn valve next to the boiler and a second valve of the outside screw and yoke type.

875—92.12(89) Blowoff connection. This rule applies to power boilers installed prior to July 1, 1983. Each boiler shall have a blowoff pipe fitted with valve or cock, in direct connection with the lowest water space practicable.

When the maximum allowable working pressure exceeds 125 psig, the blowoff pipe shall be at least schedule 80 from the boiler to the valve or valves and shall run full size without reducers or bushings. Galvanized materials shall not be used.

All fittings between the boiler and valve shall be steel or at least schedule 80 fittings of bronze, brass, malleable iron, or cast iron, all of which shall be suitable for the pressure and temperature. In case of replacement of pipe or fittings in the blowoff lines, as specified in this paragraph, they shall be installed in accordance with the rules of new installations.

When the maximum allowable working pressure exceeds 125 psig, each bottom blowoff pipe shall be fitted with at least a 250-pound standard valve or cock. Two valves, or a valve and a cock, should be used on each blowoff.

When exposed to direct furnace heat, a bottom blowoff pipe shall be protected by firebrick or other heat resisting material so arranged that the pipe may be inspected.

An opening in the boiler setting for a blowoff pipe shall be arranged to provide for free expansion and contraction.

These rules are intended to implement Iowa Code chapter 89.

[Filed 7/15/59]

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[Filed emergency 6/13/83—published 7/6/83, effective 7/1/83]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed 3/17/89, Notice 9/21/88—published 4/5/89, effective 5/10/89]

[Filed 10/25/91, Notice 7/10/91—published 11/13/91, effective 1/1/92]

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CHAPTER 93
MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 1/14/98, see Labor Services[347] Ch 45]
[Prior to 8/16/06, see 875—Ch 206]

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

875—93.1(89) Scope. This chapter sets forth requirements in addition to those contained in 875—Chapter 92 for boilers that:

1. Have a heating surface of 20 square feet or less;
2. Have a gross volume of 5 cubic feet or less, excluding casing and insulation;
3. Have an inside shell diameter of 16 inches or less;
4. Have 100 psig maximum allowable working pressure; and
5. Were installed prior to September 20, 2006.

For objects covered by this chapter, if there is a conflict between this chapter and Chapter 92, this chapter shall govern the issue.

875—93.2(89) Code adopted by reference. The current edition of the National Board Inspection Code adopted by reference in rule 875—91.1(89) shall apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 3635C, IAB 2/14/18, effective 3/21/18]

875—93.3(89) Maximum working pressure. The maximum allowed working pressure is to be determined by rule 875—92.4(89).

875—93.4(89) Safety valves. Boilers covered by this chapter shall be equipped with a sealed spring-loaded pop safety valve of not less than ½-inch pipe size. The minimum relieving capacity of the safety valve shall be determined in accordance with rule 875—92.7(89). In addition to these requirements, the safety valve shall have sufficient capacity to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above maximum allowable working pressure.

875—93.5(89) Steam stop valves. Each steam line from a miniature power boiler shall be provided with a stop valve located as close to the boiler shell or drum as is practicable except when the boiler and steam receiver are operated as a closed system.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.6(89) Water gages.

93.6(1) Miniature power boilers for operation with a definite water level shall be equipped with a glass water gage for determining the water level. The lowest permissible water level for vertical boilers shall be at a point one-third of the height of the shell above the bottom head or tube sheet. When the boiler is equipped with an internal furnace, the water level shall not be less than one-third of the length of the tubes above the top of the furnace tube sheet. In the case of small boilers operated in a closed system where there is insufficient space for the usual glass water gage, water level indicators of the glass bull's eye type may be used.

93.6(2) Miniature power boilers shall have the lowest visible part of the water gage glass located at least 1 inch above the lowest permissible water level specified by the manufacturer.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.7(89) Feedwater supply.

93.7(1) Except for miniature power boilers operating without the extraction of steam, miniature power boilers shall be provided with at least one feed pump or other feeding device unless the boiler feed line is connected to a water main carrying sufficient pressure to feed the boiler. In the latter case, in lieu of a feeding device, a suitable connection or opening shall be provided to fill the boiler when cold. Such connection shall be no less than ½-inch pipe size for iron or steel pipe and ¼ inch for brass or copper pipe.

93.7(2) The feed pipe shall be provided with a check valve and a stop valve of a size not less than that of the pipe. The feed water may be delivered through the blowoff opening if desired.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.8(89) Blowoff. Miniature power boilers shall be equipped with a blowoff connection, not less than ½-inch pipe size, located to drain from the lowest water space practicable. The blowoff shall be equipped with a valve or cock not less than ½-inch pipe size.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.9(89) Washout openings. Miniature power boilers exceeding 12 inches internal diameter or having more than ten square feet of heating surface shall be fitted with not less than three brass washout plugs of 1-inch pipe size that shall be screwed into openings in the shell near the bottom. In miniature power boilers of the closed type system heated by removable internal electric heating elements, the openings for these elements when suitable for cleaning purposes may be substituted for washout openings. Boilers not exceeding 12 inches internal diameter and having less than ten square feet of heating surface need not have more than two 1-inch openings for cleanouts, one of which may be used for the attachment of the blowoff valve; these openings shall be opposite each other where possible. All threaded openings shall be opposite each other where possible. All threaded openings in the boiler shall be provided with a riveted or welded reinforcement to give four full threads therein.

Electric boilers of a design employing a removable top cover flange for inspection and cleaning need not be fitted with washout openings.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—93.10(89) Fixtures and fittings. All valves, pipe fittings, and appliances connected to a miniature power boiler shall be equal to at least the minimal requirements of the construction or installation code and shall be rated for not less than the maximum allowable working pressure of the miniature power boiler. In no case shall the rating be for less than 125 pounds.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 89.

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CHAPTER 94
STEAM HEATING BOILERS, HOT WATER HEATING BOILERS AND
HOT WATER SUPPLY BOILERS

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 1/14/98, see Labor Services[347] Ch 46]
[Prior to 8/16/06, see 875—Ch 207]

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

875—94.1(89) Scope. This chapter shall apply to:

94.1(1) Steam boilers for operation at pressures not exceeding 15 psig;

94.1(2) Hot water heating boilers for operation at pressures not exceeding 160 psig or temperatures not exceeding 250° F at or near the boiler outlet;

94.1(3) Hot water supply boilers.

[ARC 5977C, IAB 10/20/21, effective 11/24/21]

875—94.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.3(89) General requirements. This rule applies to all objects covered by this chapter and installed prior to September 20, 2006.

94.3(1) *Instruments, fittings and controls mounted inside boiler jackets.* Any or all instruments, fittings and controls required by this chapter may be installed inside of boiler jackets provided the water gage and pressure gage on a steam boiler or the thermometer and pressure gage on a water boiler are visible through an opening or openings at all times.

94.3(2) *Electrical code compliance.*

a. Wiring. All wiring for controls, heat-generating apparatus and other appurtenances necessary for the operation of the boiler or boilers shall be in accordance with the National Electric Code (1992). All boilers supplied with factory-mounted and factory-wired controls, heat-generating apparatus and other appurtenances necessary for the operation of the boilers shall be installed in accordance with the provisions of nationally recognized standards.

b. Circuitry. The control circuitry shall be grounded and shall operate at 150 volts or less. One of the two following systems may be employed to provide the control circuit:

(1) Two-wire, nominal 120-volt system with separate equipment ground conductor as follows:

This system shall consist of the line, neutral and equipment ground conductors. The control panel frame and associated control circuitry metallic enclosures shall be electrically continuous and be bonded to the equipment ground conductor.

The equipment ground conductor and the neutral conductor shall be bonded together at their origin in the electrical system for objects installed prior to September 20, 2006.

The line side of the control circuit shall be provided with a time delay fuse sized as small as practicable.

(2) Two-wire, nominal 120-volt system obtained by using an isolation transformer as follows:

The two-wire control circuit shall be obtained from the secondary side of an isolation transformer, shall be electrically continuous and shall be bonded to a convenient cold water pipe. All metallic enclosures of control components shall be securely bonded to this ground control circuit wire. The primary side of the isolation transformer will normally be a two-wire source with a potential 230, 208 or 440 volts.

Both sides of the two-wire primary circuit shall be fused. The hot leg on the load side of the isolation transformer shall be fused as small as practicable, and shall not be fused above the rating of the isolation transformer.

94.3(3) *Safety and safety relief valve discharge piping.* When a discharge pipe is used, its internal cross-sectional areas shall not be less than the full area of the valve outlet or of the total of the valve outlets discharging therein and shall be as short and straight as possible and so arranged as to avoid undue stress on the valve or valves. When an elbow is placed on a safety valve or safety relief valve discharge pipe, the elbow shall be located close to the valve outlet.

94.3(4) Expansion and contraction. Provisions shall be made for the expansion and contraction of steam and hot water mains connected to boilers.

94.3(5) Return pipe connections. The return pipe connections of each boiler supplying a gravity-return steam heating system shall be so arranged as to form a loop so that the water in each boiler cannot be forced out below the safe water level.

94.3(6) Feed water connections.

a. Feed water, makeup water or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent feed water connection shall not discharge against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided for inspection, cleaning, safety valves, safety-relief valves, blowoffs, water columns, water gage glasses, pressure gages or temperature gages.

b. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

94.3(7) Oil heaters.

a. A heater for oil or other liquid harmful to boiler operation shall not be installed directly in the steam or water space within a boiler.

b. Where an external-type heater for such service is used, means shall be provided to prevent the introduction into the boiler of oil or other liquid harmful to boiler operation.

94.3(8) Bottom blowoff or drain valve.

a. Each boiler shall have a bottom blowoff or drain pipe connection fitted with a valve or cock connected with the lowest water space practicable, with the minimum size of blowoff piping and valves as specified below:

Minimum Required Safety or Safety-Relief Valve Capacity (Pounds of Steam Per Hour)	Size of Blowoff Valves (Inches)
Up to 500	¾
501 to 1250	1
1251 to 2500	1¼
2501 to 6000	1½
6001 and larger	2

NOTE: Multiply 1,000 by the relieving capacity in pounds of steam per hour to determine the Btu's of safety relief valve discharge capacity.

b. Any discharge piping connected to bottom blowoff or bottom drain connections shall be full size to the point of discharge.

94.3(9) Low-water fuel cutoff.

a. Each automatically fired hot water heating boiler shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be so located as to automatically cut off the fuel supply when the surface of the water falls to the level established.

b. As there is no normal waterline to be maintained in a hot water heating boiler, any location of the low-water fuel cutoff above the lowest safe permissible water level established by the boiler manufacturer is satisfactory.

c. A coil-type boiler or a watertube boiler requiring forced circulation to prevent overheating of the coils or tubes shall have a flow-sensing device installed in the outlet piping in lieu of the low-water fuel cutoff to automatically cut off the fuel supply when the circulating flow is interrupted.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.4(89) Steam heating boilers installed before July 1, 1960. All steam heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.4(1) Safety valves.

a. Each steam boiler shall have one or more safety valves bearing the National Board "HV" stamp of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety

valves shall be arranged so that they cannot be set to relieve at a higher pressure than the maximum allowable working pressure of the boiler. For iron and steel bodied valves exceeding 2-inch pipe size, the drain hole or holes shall be tapped not less than 3/8-inch pipe size.

b. The safety valves shall be located in the top or side of the boiler. They shall be connected directly to a tapped or flanged opening in the boiler, to a fitting connected to the boiler by a short nipple, to a Y-base, or to a valveless header connecting steam or water outlets on the same boiler. Coil or header type boilers shall have the safety valve located on the steam outlet end. Safety valves shall be installed with their spindles vertical. The opening or connection between the boiler and any safety valve shall have at least the area of the valve inlet.

c. Safety valves ½-inch or more in diameter that are installed on a steam boiler shall have a hand-lifted device that will positively lift the disk from its seat at least 1/16 inch when there is no pressure in the boiler. The seats and disks shall be of noncorrosive material.

d. Safety valves for a steam boiler shall be at least ½ inch unless the boiler and radiating surfaces consist of a self-contained unit. Safety valves shall not be larger than 4½ inches. The inlet opening shall have an inside diameter equal to or greater than the seat diameter.

e. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.

f. The minimum valve capacity in pounds per hour shall be equal to the steam generation as specified in 875—subrules 92.7(9) and 92.7(10).

g. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment operated at maximum capacity the pressure will not rise more than 5 percent above the maximum allowable working pressure.

h. When operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall meet the new conditions.

94.4(2) Steam gages.

a. Each steam boiler shall have a steam gage or a compound steam gage connected to its steam space, its water column, or to its steam connection. The gage or connection shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gage tube. The connection shall be so arranged that the gage cannot be shut off from the boiler except by a cock placed in the pipe at the gage and provided with a tee or lever-handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than ¼-inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, it shall be not less than ½-inch standard pipe size. The minimum size of a siphon, if used, shall be ¼-inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe size listed above may be substituted for pipe.

b. The scale on the dial of a steam boiler gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from zero to 30 psig pressure shall be at least 3 inches on a compound gage, and effective stops shall be set at the limits of the gage readings on both the pressure and vacuum sides of the gage.

94.4(3) Water gage glasses.

a. Each steam boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings not less than ½-inch pipe size with the lower fittings provided with a drain valve having an unrestricted drain opening not less than ¼-inch diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure. Water gage glass fittings may be attached directly to a boiler.

b. The lowest visible part of the water gage glass shall be at least 1 inch above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

c. Transparent material other than glass may be used for the water gage provided that the material will remain transparent and has proved suitable for the pressure, temperature and corrosive conditions expected in service.

94.4(4) Water column and water level control pipes.

a. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 inch. No outlet connections, except for damper regulator, feedwater regulator, steam gages or apparatus which does not permit the escape of any steam or water, except for manually operated blowdowns, shall be attached to a water column or the piping connecting a water column to a boiler. If the water column, gage glass, low-water fuel cutoff or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right angle to facilitate cleaning. The water column drainpipe and valve shall be not less than $\frac{3}{4}$ -inch pipe size.

b. The steam connections to the water column of a horizontal firetube wrought boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the center line of the shell. For a cast iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connections shall be made on an end section not less than 6 inches below the bottom connection to the water gage glass.

94.4(5) Pressure control.

a. In addition to the operating control for normal boiler operation, each individual, automatically fired steam heating boiler shall have a high-limit, pressure-actuated combustion control that will cut off the fuel supply to prevent the pressure from rising over 15 psig. The separate controls may have a common connection to the boiler. Upon replacement of the high-limit, pressure-actuated combustion control, controls with manual reset shall be installed.

b. In a multiple boiler installation where the operating pressure control may be installed in a header or other point common to all boilers and could be isolated from any or all of the boilers, there shall be at least one high-limit, pressure-actuated combustion control mounted on each boiler.

c. No shutoff valve of any type shall be placed in the connection to the high-limit, pressure-actuated control. The control or connections shall contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the control. The connections to the boiler shall not be less than $\frac{1}{4}$ -inch standard pipe size, but where steel or wrought-iron pipe or tubing is used, the fittings shall be not less than $\frac{1}{2}$ -inch standard pipe size. The minimum size of a siphon, if used, shall be $\frac{1}{4}$ -inch inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe size listed above may be substituted for pipe where a manifold is used for a multiple control. The connection to the boiler shall not be less than $\frac{1}{4}$ -inch standard pipe size.

94.4(6) Automatic low-water fuel cutoff or water-feeding device.

a. Each automatically fired steam or vapor system boiler shall have an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest visible part of the water gage glass. If a water-feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feedwater.

b. A fuel cutoff or water-feeding device may be attached directly to a boiler or in the tapped openings available for attaching a water glass directly to a boiler. Connections in the tapped openings shall be made to the boiler with nonferrous tees or "Y's" not less than $\frac{1}{2}$ -inch pipe size between the boiler and the water glass so that the water glass is attached directly and as closely as possible to the boiler. The run of the tee or "Y" shall take the water glass fittings, and the side outlet or branch of the tee or "Y" shall take the fuel cutoff or water-feeding device. The ends of all nipples shall be reamed to full-size diameter.

c. Fuel cutoffs and water-feeding devices embodying a separate chamber shall have a vertical straightway drainpipe and a blowoff valve not less than $\frac{3}{4}$ -inch pipe size located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

94.4(7) Stop valves for single steam heating boilers. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

94.4(8) Stop valves for multiple steam heating boilers. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

875—94.5(89) Hot water heating boilers installed before July 1, 1960. Hot water heating boilers installed before July 1, 1960, shall be constructed and installed in accordance with this rule.

94.5(1) Safety relief valves.

a. Each hot water heating boiler shall have at least one safety relief valve bearing the National Board “HV” stamp of the automatic-resetting type set to relieve at or below the maximum allowable working pressure of the boiler. The safety relief valve shall have pop action when tested by steam. When more than one safety relief valve is used on a hot water heating boiler, the additional valve or valves must bear the National Board “HV” stamp and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be so arranged that they cannot be reset to relieve at a higher pressure.

b. No safety relief valve shall be smaller than ¾-inch nor larger than 4½-inch standard pipe size, except those boilers having a heat input not greater than 15,000 Btu’s per hour may be equipped with a safety relief valve of ½-inch standard pipe size bearing the National Board “HV” stamp. The inlet opening shall have an inside diameter equal to or greater than the seat diameter. In no case shall the minimum opening through any part of the valve be less than ½-inch diameter.

94.5(2) Temperature and pressure gage.

a. Each hot water boiler shall have a temperature and pressure gage properly calibrated to the altitude connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

b. The scale on the dial of the temperature and pressure gage shall be graduated approximately to not less than one and one-half nor more than three times the pressure at which the safety relief valve is set. The gage shall be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point.

c. The temperature gage shall be so located and connected that it shall be easily readable. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

d. Piping or tubing for temperature and pressure gage connections shall be of nonferrous metal when smaller than 1-inch pipe size.

94.5(3) Temperature control.

a. In addition to the operating control used for normal boiler operation, each individual, automatically fired hot water boiler shall have a separate high-limit, temperature-actuated combustion control that will cut off the fuel supply to prevent the temperature of the water from rising over 250° F. Separate controls may have a common connection to the boiler.

b. In a multiple boiler installation where the operating temperature actuated control may be installed in a header or other point common to all boilers and can be isolated from any or all of the boilers, there shall be at least one high-limit, temperature-actuated combustion control mounted on each boiler.

94.5(4) Low-water fuel cutoff. Rescinded IAB 11/18/09, effective 1/1/10.

94.5(5) Stop valves.

a. On single hot water heating boilers, stop valves shall be located at an accessible point in the supply and return pipe connections as near the boiler nozzle as is convenient and practicable to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve shall be used in each boiler’s supply and return pipe connection.

94.5(6) Provisions for thermal expansion in hot water heating system.

a. All hot water heating systems incorporating hot water tanks or fluid relief columns shall be so installed as to prevent freezing under normal operating conditions.

b. Systems with open expansion tanks require an indoor overflow from the upper portion of the expansion tank in addition to an open vent. The indoor overflow is to be carried within the building to a suitable plumbing fixture or to the basement.

c. An expansion tank adequate for the volume and capacity of the system shall be installed. If the system is designed for a working pressure of 30 psi or less, the tank shall be suitably designed for a minimum hydrostatic test pressure of 75 psi. Expansion tanks for systems designed to operate above 30 psi shall be constructed in accordance with ASME Code, Section VIII, Division I, in effect when installed. Provisions shall be made for draining the tank without emptying the system, except for prepressurized tanks.

d. The expansion tank capacities for gravity hot water heating systems shall be as follows:

Sq. Ft. of Installed Equivalent	Tank Capacity
Direct Radiation	Gallons
Up to 350	18
Up to 450	21
Up to 650	24
Up to 900	30
Up to 1100	35
Up to 1400	40
Up to 1600	2-30
Up to 1800	2-30
Up to 2000	2-35
Up to 2400	2-40
2400 and up	1 additional gallon per 33 square feet of additional equivalent direction radiation

e. The expansion tank capacities for forced hot water heating systems shall be based on an average operating water temperature of 195°F, a fill pressure of 12 psig, and a maximum operating pressure of 30 psig as follows:

System Volume, Gallons	Tank Capacity, Gallons
100	15
200	30
300	45
400	60
500	75
1,000	150
2,000	300

In calculating, include the volume of water in boiler, radiation and piping but not the expansion tank.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—94.6(89) Hot water supply boilers installed before July 1, 1960.

94.6(1) Scope. This rule establishes minimum requirements for installation, operation, and inspection of hot water supply boilers installed before July 1, 1960, when any of the following limitations are exceeded:

- Heat input of 200,000 Btu's per hour.
- Water temperature of 210°F.
- A water containing capacity of 120 gallons.

94.6(2) Safety relief valves. Each hot water supply boiler must have at least one pressure and temperature relief valve bearing the National Board "HV" stamp installed on the hot water outlet line.

94.6(3) Safety valves and safety relief valves for tanks and heat exchangers.

a. When a hot water supply vessel is heated indirectly by steam in a coil or pipe, the pressure of the steam used shall not exceed the safe working pressure of the tank. A safety relief valve at least 1 inch in diameter shall be installed on the tank and shall be set to relieve at or below the maximum allowable working pressure of the tank.

b. When water over 160° F is circulated through the coils or tubes of a heat exchanger to warm the water for space heating or hot water supply, the heat exchanger shall be equipped with one or more safety

relief valves bearing the National Board “HV” stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 10 percent above the maximum allowable working pressure of the vessel. The valves shall be set to relieve at or below the maximum allowable working pressure of the heat exchanger.

c. When water over 160° F is circulated through the coils or tubes of a heat exchanger to generate low-pressure steam, the heat exchanger shall be equipped with one or more safety valves bearing the National Board “HV” stamp of sufficient rated capacity to prevent the heat exchanger pressure from rising more than 5 psig above the maximum allowable working pressure of the vessel. The valves shall be set to relieve at a pressure not to exceed 15 psig.

94.6(4) *Gages.* Temperature and pressure gages shall be installed in accordance with 94.5(2).

94.6(5) *Temperature controls.* Temperature controls shall be installed in accordance with 94.5(3).

94.6(6) *Stop valves.*

a. Stop valves shall be placed in the supply and return pipe connections of a single hot water supply boiler installation to permit draining the boiler without emptying the system.

b. Where two or more boilers are connected in a common system, a stop valve shall be used in each boiler’s supply and return pipe connection.

94.6(7) *Thermal expansion.* If a system is equipped with a check valve or pressure-reducing valve in the cold water inlet line, an airtight expansion tank or other suitable air cushion shall be installed. When an expansion tank is provided, it shall be constructed in accordance with the ASME Code, Section VIII, Division 1, in effect when installed, for a maximum allowable working pressure equal to or greater than the water heater. Except for prepressurized tanks, provisions shall be made for draining the tank without emptying the system.

These rules are intended to implement Iowa Code chapter 89.

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CHAPTER 95
WATER HEATERS

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 1/14/98, see Labor Services[347] Ch 47]

[Prior to 8/16/06, see 875—Ch 208]

Rescinded **ARC 3903C**, IAB 7/18/18, effective 9/1/18

CHAPTER 96
UNFIRED STEAM PRESSURE VESSELS

[Prior to 9/24/86, Labor, Bureau of[530] Ch 209]
[Prior to 1/14/98, see Labor Services[347] Ch 48]
[Prior to 8/16/06, see 875—Ch 209]

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

875—96.1(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

875—96.2(89) Objects installed prior to July 1, 1983.

96.2(1) Maximum allowable working pressure.

a. The maximum allowable working pressure for code-stamped unfired steam pressure vessels shall be determined in accordance with the applicable provisions of the ASME Code or American Petroleum Institute Code under which they were constructed and stamped.

b. The maximum allowable working pressure on the shell of unfired steam pressure vessels without a code stamp shall be determined by the following equation.

TStE / RFS = Maximum allowable working pressure, psig.

Where:

TS = Ultimate tensile strength of shell plate(s), psig. When the tensile strength of a steel plate(s) is unknown, it shall be taken as 55,000 psig for temperatures not exceeding 650 degrees F.

t = Minimum thickness of shell plates of the weakest course, in inches.

E = Efficiency of longitudinal joint. For riveted joints, use ASME Code, Section 1 (1971). For fusion-welded and brazed joints, use the following table:

Table with 2 columns: Joint type and Efficiency value. Rows include Single lap welded (40), Double lap welded (60), Single butt welded (60), Double butt welded (75), Forge welded (70), and Brazed steel (80).

R = Inside radius of the weakest course of shell or drum in inches, provided the thickness does not exceed 10 percent of the radius. If the thickness is over 10 percent of the radius, the outer radius shall be used.

FS = Factor of safety shall be four.

c. The maximum allowable working pressure for unfired steam pressure vessels without an ASME stamp subjected to external or collapsing pressure shall be determined by the ASME Code, Section VIII.

96.2(2) Factor of safety. Rescinded IAB 9/5/12, effective 10/10/12.

96.2(3) End closures. The maximum allowable working pressure permitted for formed heads under pressure shall be determined by using the formulas in ASME Code, Section VIII.

96.2(4) Safety appliances. Each unfired steam pressure vessel shall be protected by such safety and relief valves and indicating and controlling devices as will ensure its safe operation. Valves shall not readily be rendered inoperative. The relieving capacity of safety valves shall be such as to prevent a rise of pressure in the vessel of more than 10 percent above maximum allowable working pressure, taking into account the effect of static head. Safety valve discharges shall be carried to a safe place.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 0319C, IAB 9/5/12, effective 10/10/12]

These rules are intended to implement Iowa Code chapter 89.

[Filed 7/15/59]

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CHAPTERS 97 to 109

Reserved

RIGHT TO KNOW

CHAPTER 110

HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW—
GENERAL PROVISIONS

[Prior to 9/24/86, see Labor, Bureau of[530]]

[Prior to 10/21/98, see 347—Ch 110]

Rescinded **ARC 6289C**, IAB 4/6/22, effective 5/11/22

CHAPTERS 111 to 119

Reserved

CHAPTER 120

WORKER RIGHT TO KNOW

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 10/21/98, see 347—Ch 120]

Rescinded IAB 2/24/99, effective 3/31/99

CHAPTERS 121 to 129

Reserved

CHAPTER 130
COMMUNITY RIGHT TO KNOW HAZARDOUS CHEMICALS

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 10/21/98, see 347—Ch 130]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—130.1(89B) Employer's duty. Upon request, an employer has a duty to inform the public of the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose. Requests shall be made during normal office hours of the employer. The employer shall provide the information or reason for refusal within ten days. If the request is from a health professional, the information shall be provided immediately.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.2(89B) Records accessibility.

130.2(1) Accessible records include safety data sheets. The employer shall also provide information concerning the quantity of each hazardous chemical stored or used. Quantity information may include the manner of purchase, such as in gallon containers, barrels, tankers, etc. Additionally, the employer shall provide information specifying the quantity as less than 500 pounds, between 500 pounds and 1,000 pounds, between 1,000 pounds and 5,000 pounds, or in excess of 5,000 pounds.

130.2(2) An employer is not required to make a copy of a safety data sheet if the interested person is given an opportunity to review and make notes regarding the safety data sheet. If an employer provides a copy of a safety data sheet at the request of the interested person, a reasonable fee can be charged for the actual cost of copying.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.3(89B) Application for exemption. An employer shall make a written application to the commissioner setting forth the specific grounds for a claimed exemption. Upon receipt of an application, the commissioner will give the applicant notice and opportunity to be heard at a full evidentiary hearing before the commissioner.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.4(89B) Burden of proof and criteria.

130.4(1) *Trade secrets.* The employer-applicant has the burden of proof in showing that the information claimed as exempted qualifies as a trade secret. The commissioner may take official notice that similar information of the employer-applicant has been deemed a trade secret and may summarily grant the exemption based on the official notice.

130.4(2) *Relevance of public health and safety/damage to employer.* The employer-applicant has the burden of proof in showing that the information is not relevant to public health and safety or that the release of the information would damage the employer. Notification in writing by the employer is not, in and of itself, sufficient to allow the employer to obtain the exemption.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.5(89B) Formal ruling. The commissioner will issue a formal ruling upon application. The ruling will set forth findings of fact and conclusions of law and grant or deny the application. The ruling is the final agency action for purposes of Iowa Code chapter 17A.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.6(89B) Request for information. An interested person may request information from an employer. If the request is denied by the employer, the requesting party may then file an application for information with the division. The application will set forth the information being requested and that the information was refused by the employer or that the employer denies access or that the employer alleges that no records were kept. The applicant shall state the interest in the information requested to be received.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.7(89B) Filing with division. Upon receipt of application for information, the division will determine if the applicant has a legitimate interest, and if so, the division will make a written demand upon the employer to provide the requested information to the division. If the employer complies, the division will forward copies to the interested person. Requests for the information under rule 875—130.6(89B) will be kept confidential. The division shall not disclose the name of the interested person to any person.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.8(89B) Grounds for complaint against the employer. The commissioner may cite the employer on a formal written complaint on any of the following grounds:

130.8(1) The division has not received a reply within 30 days of the request for information pursuant to rule 875—130.7(89B); or

130.8(2) The division finds on an occupational safety and health inspection that the employer's records materially distort the information given to the public or an emergency response department so as to pose a serious hazard to community health, environment, or emergency response personnel.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.9(89B) Investigation or inspection upon complaint. Within 15 days of determining that there are grounds for a complaint, the commissioner shall either notify the employer in writing of the grounds for the complaint and request information or conduct an unannounced inspection of the employer's workplace at reasonable times and in a reasonable manner. Within 30 days of initiating an investigation or inspection, the division may find that the complaint is invalid and unfounded and so inform the interested person and the employer in writing.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

875—130.10(89B) Order to comply.

130.10(1) If, after conducting an investigation or inspection of the employer's workplace, the commissioner finds that the complaint is meritorious, the commissioner shall issue an order to comply to the employer that shall set forth with specificity the employer's noncompliance with Iowa Code chapter 89B or these rules. The commissioner shall give the employer a period of 30 days to take remedial steps for compliance. The commissioner may establish a shorter period of time if justification is provided in the order to comply.

130.10(2) An employer may request an administrative hearing on the order to comply at any time prior to the time set forth for compliance in the order to comply.

130.10(3) If the employer has not requested a hearing, the commissioner, after the time set forth for compliance with the order to comply, may reexamine records submitted by the employer or may reinspect the premises. If the employer has not taken the necessary remedial steps required by the order to comply, the commissioner, upon notice and administrative hearing, may issue a decision on the order to comply that is a final agency action pursuant to Iowa Code chapter 17A.

130.10(4) In the event that the employer fails to comply with a decision on the order to comply, the commissioner may commence an action in the Iowa district court for injunctive and other equitable relief that may be just and equitable.

[ARC 8751C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code section 30.7 and chapter 89B.

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CHAPTERS 131 to 139
Reserved

CHAPTER 140
PUBLIC SAFETY/EMERGENCY RESPONSE RIGHT TO KNOW

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 10/21/98, see 347—Ch 140]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—140.1(89B) Employer waiver applications.

140.1(1) An employer may, in writing, apply to the commissioner for a waiver for less stringent sign posting requirements.

140.1(2) The employer has the burden of proof to show that compliance imposes an undue hardship and that the less stringent sign posting requirements as proposed by the employer offer substantially the same degree of notice and protection to emergency responders as if Iowa Code section 89B.14 were strictly applied.

[ARC 8752C, IAB 1/8/25, effective 2/12/25]

875—140.2(89B) Agreement between an employer and fire department.

140.2(1) In instances where the posting of a sign for each hazardous chemical would be ambiguous or repetitive or where space is limited by the physical characteristics of the structure, or in situations, such as in a building, structure, or location where a wide variety of materials may be stored having varying degrees of hazards, the identifying symbol shall indicate the most severe degree of hazard in each category except when a high hazard rating would be misleading because of the presence of an insignificant quantity of the material requiring the rating.

140.2(2) The employer and the local fire department may enter into a written agreement providing for the posting of signs for the most hazardous chemical in each principal category. The agreement is subject to the approval of the division pursuant to the procedure for a waiver. If the waiver is approved, the employer shall post in the same location as the required posted signs a sign stating: “Signs not posted for all hazardous chemicals” in block letters at least three inches in height.

[ARC 8752C, IAB 1/8/25, effective 2/12/25]

875—140.3(89B) Information submitted to local fire department. The employer shall submit to the local fire department a list of hazardous chemicals that the employer’s facility consistently generates, uses, stores, or transports. The employer shall submit updated information as it becomes available to the employer.

140.3(1) This rule applies to any amount of a hazardous chemical that meets at least one of the following criteria:

- a. Is a U.S. Department of Transportation Division 1.1, Division 1.2, or Division 1.3 explosive;
- b. Is a U.S. Department of Transportation Division 2.3 toxic gas;
- c. Is a U.S. Department of Transportation Division 6.1 toxic substance;
- d. Is a U.S. Department of Transportation Division 4.3 material;
- e. Is a U.S. Department of Transportation Radioactive Yellow III material;
- f. Has a National Fire Protection Association (NFPA) 704-2022 health rating of greater than or equal to 3;
- g. Has an NFPA 704-2022 flammability rating of 4; or
- h. Has an NFPA 704-2022 reactivity rating of 4.

140.3(2) This rule applies to a hazardous chemical that is present in aggregate quantities of 25 gallons of liquid, 250 pounds of nonliquid, or 250 combined pounds of liquid and nonliquid and has:

- a. An NFPA 704-2022 health rating of greater than or equal to 2;
- b. An NFPA 704-2022 flammability rating of greater than or equal to 3; or
- c. An NFPA 704-2022 reactivity rating of greater than or equal to 2.

140.3(3) In addition to a list of the hazardous chemicals, the employer shall provide the following:

- a. The employer’s name;
- b. The name, phone number, and email address of the employer’s contact person;
- c. The employer’s mailing address;

- d. The address of the facility where hazardous chemicals are present;
- e. The NFPA numerical hazard rating in health, flammability, and reactivity for each hazardous chemical;
- f. Any information that constitutes a special hazard pursuant to NFPA 704-2022, Chapter 5, for each listed chemical; and
- g. Any other special hazard information from the safety data sheets that may be relevant.

140.3(4) If requested by the fire department, the employer shall provide to the fire department the information listed in this subrule, unless the fire department tours the facility annually.

a. A diagram that shows the permanent location of each hazardous chemical within the employer's facility, as well as easily recognizable reference points such as doorways, stairs, and windows; and

b. A copy of the safety data sheets.

[ARC 8752C, IAB 1/8/25, effective 2/12/25]

875—140.4(89B) Procedure for noncompliance. If an employer fails to comply with the requirements of this chapter, the fire chief in the jurisdiction of the employer may file a written complaint with the commissioner.

[ARC 8752C, IAB 1/8/25, effective 2/12/25]

875—140.5(89B) Notice of noncompliance. The commissioner may rely on the information provided by the fire chief and immediately issue a notice of noncompliance to the employer.

140.5(1) Opportunity for hearing. The notice of noncompliance shall be sent by certified mail and set forth that the employer may have an opportunity to be heard upon demand by the employer. In the event the employer demands a hearing, the commissioner may conduct an investigation or an inspection.

140.5(2) In the event the employer does not demand a hearing within 30 days of the receipt of notice of noncompliance, the commissioner shall, without further notice, issue an order for compliance that is a final agency action pursuant to Iowa Code chapter 17A.

140.5(3) In the event the issue of noncompliance comes for hearing before the commissioner, the commissioner may, at the conclusion of the hearing, issue an order for compliance that is final agency action pursuant to Iowa Code chapter 17A or dismiss the complaint.

[ARC 8752C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code section 30.7 and chapter 89B.

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◇ Two or more ARCs

CHAPTERS 141 to 149
Reserved

CONSTRUCTION—REGISTRATION AND BONDING

CHAPTER 150
CONSTRUCTION CONTRACTOR REGISTRATION

[Prior to 10/21/98, see 347—Ch 150]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—150.1(91C) Scope. This chapter implements Iowa Code chapter 91C. The rules in this chapter apply to all construction contractors, except for a person who earns less than \$2,000 annually or who performs work or has work performed on the person's own property.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.2(91C) Definitions.

"Construction" means new work, additions, alterations, reconstruction, installations, repairs and demolitions. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites that may be dispersed geographically. Examples of construction activities, adopted by reference, are in rule 871—23.82(96) for purposes of the Iowa employment security law.

"Contractor" means a person who engages in the business of construction as the term is defined in rule 871—23.82(96), for purposes of the Iowa employment security law, including subcontractors and special trade contractors.

"Department" means the department of inspections, appeals, and licensing.

"Director" means the director of the department of inspections, appeals, and licensing or the director's designee.

"File" means deliver to the department.

"Out-of-state contractor" means a contractor whose principal place of business is in another state, and who contracts to perform construction in this state.

"Principal place of business" means the state in which a substantial part of the contractor's business is transacted and from which the centralized supervision is exercised. Factors to be reviewed include:

1. State designated as home office on documents filed with governmental agencies.
2. State where payroll is prepared.
3. State where business transactions are performed.
4. State where officers, owners, or partners reside and work.
5. State in which bank accounts are located.
6. State in which fixed business property is located.
7. State where management decisions are made.

"Same phase of construction" means in the same type of construction operations or trade, such as but not limited to electrical work; masonry, stonework, tile setting and plastering; roofing; sheet metal work; excavation work; concrete work; glasswork; painting, paper hanging and decorating; plumbing, heating and air conditioning work; carpentry work; and miscellaneous special trade contractors.

"Working days" means Mondays through Fridays but not Saturdays, Sundays or federal or state holidays. In computing 15 working days, the day of receipt of any notice is not to be included, and the last day of the 15 working days is included.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.3(91C) Registration required. Before performing any construction work in this state, a contractor shall be registered with the department. A joint venture is an independent entity and is registered independently.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.4(91C) Application. A contractor that is covered by the license requirements of Iowa Code chapter 105 applies for a contractor registration number by using the application system of the Iowa plumbing and mechanical systems board. All other contractors file an application with the department on

forms provided by the department. The application contains the applicable information and documents specified in this rule.

150.4(1) *Name.* The name of the contractor.

150.4(2) *Place of business.* The complete mailing address of the principal place of business of the contractor.

150.4(3) *Telephone number.* The business telephone number of the contractor.

150.4(4) *Business classification.* The type of business entity of the contractor (e.g., corporation, partnership, sole proprietorship, trust, etc.).

150.4(5) *Ownership information.*

a. If the contractor is a corporation, the name, address, telephone number, and position of each officer of the corporation.

b. If the contractor is other than a corporation, the name, address, and telephone number of each owner.

150.4(6) *Workers' compensation coverage information.*

a. A certificate of insurance from the insurer showing proof of workers' compensation insurance, the effective dates of coverage, and listing the department of inspections, appeals, and licensing as a certificate holder;

b. Employer's release from the insurance requirements under workers' compensation law form provided to self-insured employers by the commissioner of insurance under Iowa Code section 87.11; or

c. A statement that the contractor is not required to carry workers' compensation coverage.

150.4(7) *Account number.* The employer account number issued by the unemployment insurance services division of the workforce development department before the contractor applies for a contractor registration number.

150.4(8) *Business description.* A description of the business to include:

a. The employer's North American Industry Classification System (NAICS) code; or

b. The principal products and services provided.

150.4(9) *Fee or fee exemption.* A contractor who is eligible to register without paying a fee shall submit a completed fee exemption form. All other contractors must submit the nonrefundable fee as set forth below.

a. The standard fee is \$50 per year or \$150 for a three-year registration.

b. Contractors who apply for a contractor registration number through the Iowa plumbing and mechanical systems board must pay a fee that is prorated in accordance with the length of the registration period.

150.4(10) *Social security number.* The contractor, if a natural person, shall include the contractor's social security number.

150.4(11) *Out-of-state contractor bond.* An out-of-state contractor shall:

a. File a \$25,000 surety bond that is prepared using the bond form provided by the department, or

b. Provide a copy of a letter from the department of transportation stating that the contractor is prequalified to bid on projects for the department of transportation pursuant to Iowa Code section 314.1.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.5(91C) Amendments to application.

150.5(1) A contractor shall report to the director any change in the information originally reported on or with the application within 15 working days of the change, except that the contractor shall notify the director of changes to workers' compensation coverage within ten days prior to any change in coverage.

150.5(2) After the time specified in subrule 150.5(1), with good cause shown, the director may determine that an amendment may be made to correct an application.

150.5(3) Amendments to applications are not permitted where a change occurs in the business classification, such as but not limited to a change from a sole proprietorship to a corporation.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.6(91C) Fee.

150.6(1) *New applications.* A new application deposited in the U.S. mail must include the fee effective on the date the application is postmarked. A new application delivered in any other manner must include the fee effective on the date the application is received by the department.

150.6(2) *Renewal applications.* A timely renewal application shall include the fee effective on the expiration date of the contractor's expiring registration. An application for renewal deposited in the U.S. mail after the expiration date of the contractor's expiring registration shall include the fee effective on the date the application is postmarked. An application for renewal delivered to the department in a manner other than U.S. mail and after the expiration date of the contractor's expiring registration shall include the fee effective on the date the application is received by the department.

150.6(3) *Amendments to applications.* A fee is not required for a permissible amendment to an application.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.7(91C) Registration number issuance. Within 30 days of receipt of a completed application, the director will issue to the contractor a registration number. The registration number will consist of the letter "C" followed by six unique digits.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.8(91C) Workers' compensation insurance cancellation notifications.

150.8(1) *Insurance company coverage.* The department shall be notified by the insurance company carrying the contractor's workers' compensation insurance at the time of cancellation. The notice shall contain:

- a. The name of the insurance carrier;
- b. The name of the insured contractor; and
- c. The date the workers' compensation coverage cancellation is effective.

150.8(2) *Self-insured contractors.* The contractor shall notify the department ten days prior to any cessation in self-insurance.

150.8(3) *Noninsured contractors.* The contractor shall notify the department whenever the required notice is not posted or in any change in insurance status.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.9(91C) Investigations and complaints.

150.9(1) *Investigations.* The conduct of the investigation will be such as to preclude unreasonable disruption of the operations of the work site. Investigations may be conducted without prior notice by correspondence, telephone conversations, or review of materials submitted to the department. At the initiation of an investigation at the contractor's establishment, the investigator shall present credentials, explain the nature and purpose of the investigation, and seek the consent of the owner, operator or agent in charge of the establishment. In the event the investigator is not permitted to fully conduct an investigation, the director may seek an administrative warrant.

150.9(2) *Complaints.* A complainant's name and other identifying information shall not be released if the complaint was included as a part of another complaint where the complainant's identity would be protected under other statutes or rules (e.g., a complaint filed under both Iowa Code chapters 88 and 91C).

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.10(91C) Citations/penalties and appeal hearings.

150.10(1) *Citations.* The director will issue a citation to a contractor where an investigation reveals the contractor has violated:

- a. The requirement that the contractor be registered;
- b. The requirement that the contractor's registration information be substantially complete and accurate; or
- c. The requirement that an out-of-state contractor file a bond with the department.

150.10(2) *Penalties.* If a citation is issued, the director shall notify the contractor by certified mail of the proposed administrative penalty, if any. The administrative penalties shall be not more than \$500 in the

case of the first violation and not more than \$5,000 per violation in the case of a second or subsequent violation. In proposing a penalty, due consideration will be given to knowledge of the alleged violation, knowledge of requirements of the law, and nature and extent of the alleged violation.

150.10(3) Appeal. The contractor has 15 working days within which to file a notice of contest of the citation or proposed penalty. The notice of contest is filed with the director who will forward it to the employment appeal board.

150.10(4) Appeal procedures. The rules of procedure of the employment appeal board shall apply to administrative hearings on citations and penalties.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.11(91C) Revocation of registrations and appeal hearings.

150.11(1) Reason for revocation. The director shall seek revocation of a contractor's registration where an investigation reveals the contractor failed to meet the conditions of registration at the time of issuance or no longer meets the conditions.

150.11(2) Notice of revocation. The director shall serve a notice of intent to revoke on the contractor by personal service or by restricted certified mail to the address listed in the application or by other service as permitted in the Iowa Rules of Civil Procedure. The notice shall set the time for a fact-finding interview.

150.11(3) Fact-finding interview. The purpose of the fact-finding interview is to ensure the contractor is not in compliance before the registration is revoked. The contractor may notify the fact finder of a telephone number to use at least 24 hours before the fact-finding interview is scheduled to begin. Otherwise, the fact finder will call the number on file for the contractor. The fact-finding interview may be conducted via videoconference or in person if the fact finder and the contractor make arrangements in advance.

150.11(4) Decision. The director serves the decision of the fact-finding interview on the contractor by certified mail to the address listed on the application or to another address provided by the contractor. If the certified mail is returned unclaimed or undelivered, the director will serve the decision by other service as permitted in the Iowa Rules of Civil Procedure.

150.11(5) Effective date of revocation. Revocations are effective 21 days after certified mailing of the decision.

150.11(6) Notice of contest. The contractor has 15 working days from receipt of the decision to file a notice of contest. The notice of contest shall be filed with the director, who will forward it to the employment appeal board.

150.11(7) Notice of contest procedures. The rules of procedure of the employment appeal board apply to notices of contest.

150.11(8) Effect of revocation. A contractor whose registration is revoked may reapply for a new registration number if all requirements for registration eligibility are met.

150.11(9) Relinquishing registration certificate. A contractor shall return the original registration certificate to the department when a revocation or suspension becomes final.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.12(91C) Concurrent actions. Actions under rules 875—150.10(91C) and 875—150.11(91C) may proceed at the same time against a contractor.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

875—150.13(91C) Bond release.

150.13(1) Notifications. Prior to releasing a bond, the director will notify the department of revenue, the unemployment insurance services division of the workforce development department, and applicable state subdivisions of the intent to release the bond. The director shall provide ten days for the filing of objections to the release of the bond. The director may deem any failure to respond to the notice within the time provided as an approval of the release.

150.13(2) Conditions for release. A bond shall not be released until the contractor has made payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and fees, that may accrue to the state of Iowa or its subdivisions on account of the

execution and performance of the contract or approval for the release is obtained from the appropriate agencies.

[ARC 8833C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 91C.

[Filed 12/9/88, Notice 10/5/88—published 12/28/88, effective 2/15/89]¹

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[Filed ARC 8833C (Notice ARC 8375C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

◇ Two or more ARCs

¹ Effective date (2/15/89) delayed 70 days by the Administrative Rules Review Committee at its January 5, 1989, meeting.

CHAPTERS 151 to 154
Reserved

CHAPTER 155
ASBESTOS REMOVAL AND ENCAPSULATION

[Prior to 10/18/00, see 875—Chs 81 and 82]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—155.1(88B) Definitions.

“Business entity” means a partnership, firm, association, corporation, sole proprietorship, or other business concern. A business entity that uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities is not included.

“Contractor/supervisor” means a person who supervises workers on asbestos projects or a person who enters into contracts to perform asbestos projects and personally completes the work.

“Department” means the department of inspections, appeals, and licensing.

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

“Friable asbestos material” means any material containing more than 1 percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder by hand pressure when dry.

“Inspector” means a person who inspects for asbestos-containing building materials in a school or a public or commercial building.

“License” means an authorization issued by the department permitting an individual to be employed as a worker, contractor/supervisor, inspector, management planner, or project designer.

“Management planner” means a person who prepares asbestos management plans for a school building.

“Permit” means an authorization issued by the department permitting a business entity to remove or encapsulate asbestos.

“Project designer” means a person who designs asbestos response or maintenance projects for a school or a public or commercial building.

“Worker” means a person who performs response or maintenance activities on one or more asbestos projects.

“Working days” means Monday through Friday including holidays that fall on Monday through Friday. The first working day shall be the date of actual delivery or the postmark date, whichever is earlier. However, documents with Saturday or Sunday postmark dates will be treated as though postmarked on the following Monday.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.2(88B) Permit application procedures.

155.2(1) Application. To apply for or to renew a permit, a business entity shall complete and submit the form provided by the department. All requested applicable information and attachments must be provided. A \$500 nonrefundable application fee shall accompany each permit application.

155.2(2) Action on application. A new permit is valid for one year from the date of issuance. A renewal permit is valid for one year from the expiration date of the applicant’s prior permit. A permit may be denied for the reasons set forth in rule 875—155.8(17A,88B,252J,272D) or if the application package is incomplete. Within 60 days of receiving a completed application package for a new permit, the department will issue a permit or deny the application. Within 30 days of receiving a completed application package for a permit renewal, the department will issue a permit or deny the application. Applications received after expiration of a prior permit will be considered applications for new permits rather than renewals.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.3(88B) Other asbestos regulations. Regulation of encapsulation, removal and abatement procedures are found in 875—Chapters 10 and 26 and 567—Chapter 23. Nothing in this chapter provides an exemption, waiver, or variance from any otherwise applicable regulation or statute.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.4(88B) Asbestos project records. The permittee shall keep a record of each asbestos project it performs and make the record available to the department at any reasonable time. Records required by this rule shall be kept for at least six years. These records include:

155.4(1) The name, address, and license number of the individual who supervised the asbestos project and of each employee or agent who worked on the project.

155.4(2) The location and a description of the project and the amount of asbestos material that was removed.

155.4(3) The start and completion dates of each instance of removal or encapsulation.

155.4(4) A summary of the procedures that were used to comply with all applicable standards.

155.4(5) The name and address of each asbestos disposal site where the asbestos-containing waste was deposited.

155.4(6) A receipt from the asbestos disposal site indicating the amount of asbestos and disposal date.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.5(88B) Ten-day notices.

155.5(1) General. Permittees shall notify the department at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is soonest. Legible electronic transmissions of ten-day notices in the proper format will be accepted. If work on the asbestos-removal project does not commence within 30 calendar days of the original start date identified in the ten-day notice given by permittees to the department, a revised ten-day notice shall be submitted to the department.

155.5(2) Emergency. When there is an immediate danger to life, health or property, the permittee may file the notice within five days after beginning the project. An explanation of the emergency must be included.

155.5(3) Format. The notice shall be submitted online or be on an 8½" by 11" sheet of paper and contain the following information:

a. The name, address, and telephone number of a contact person for the permittee performing the project.

b. The name, address, and telephone number of the project.

c. A description of the structure and work to be performed, including type and quantity of asbestos-containing material.

d. The scheduled dates of the project's start and end.

e. Designation of the asbestos disposal site.

f. The signature and printed name of the person who completed the form.

g. The shift or work schedule on which the project will be performed.

155.5(4) Disaster emergency proclamations. For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the initiation of the project. A description of the disaster and the disaster emergency proclamation shall be included in the notice.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.6(88B) License application procedures.

155.6(1) Application form. Except as noted in this subrule, the applicant must complete and submit the entire form provided by the department with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the respiratory protection and physician's or physician assistant's certification forms.

155.6(2) Training. A certificate of appropriate training as established by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by training providers other than themselves. Applicants who completed initial training under a prior set of applicable

rules will not be required to take another initial training course if they complete all annual refresher courses.

155.6(3) Photograph. A photograph clearly showing the applicant's face shall accompany all license applications.

155.6(4) Worker licenses. All persons seeking a license as an asbestos abatement worker shall complete an initial four-day training course and thereafter complete an annual one-day asbestos abatement worker refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(5) Contractor/supervisor licenses. All persons seeking a license as an asbestos abatement contractor/supervisor shall complete an initial five-day training course and thereafter complete an annual one-day asbestos abatement contractor/supervisor refresher training course. A nonrefundable fee of \$50 shall accompany the application.

155.6(6) Inspector licenses. All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter complete an annual one-half-day asbestos inspector refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(7) Management planner licenses. All persons seeking a license as an asbestos management planner shall complete an initial three-day inspector training course and an initial two-day management planning training course. Thereafter, an annual one-half-day asbestos inspector refresher training course plus an additional one-half-day course on management planning are required. A nonrefundable fee of \$20 shall accompany the application.

155.6(8) Abatement project designer licenses. All persons seeking a license as an asbestos abatement project designer shall complete an initial three-day abatement project designer training course. Thereafter, an annual one-day asbestos abatement project designer refresher training course is required. A nonrefundable fee of \$50 shall accompany the application.

155.6(9) Action on application. Within 30 days of receiving a completed application, the department will issue a license or deny the application. If a license is issued, it will expire one year from the date the training was completed. An application may be denied for the reasons set forth in rule 875—155.8(17A,88B,252J,272D) or if the application package is incomplete.

155.6(10) License on job site. While conducting asbestos work that requires a license, the license or a legible copy of the license shall be in the licensee's possession at the work site. However, if the department's website reflects that a license has been issued to a particular person, that person may perform work consistent with the type of license issued without the license or a copy of the license for up to 14 days from the issuance date.

155.6(11) Disaster emergency proclamations. For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the director deems an individual to be licensed and authorized for asbestos abatement if all of the criteria in either paragraph 155.6(11) "a" or "b" are met:

a. The individual contractor, supervisor, or worker makes the following immediately available on the work site:

(1) A copy of a certificate for training that was provided within the past 12 months as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A copy of a physician's or physician assistant's statement indicating that a licensed physician or physician assistant has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

(3) For a worker wearing or intending to wear a tight-fitting respirator, documentation of a respirator fit test within the past 12 months;

(4) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(5) A photo identification card; or

b. The individual working as a project designer, inspector, or management planner makes the following immediately available on the work site:

(1) A copy of a certificate for training as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(3) A photo identification card.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.7(88B) Duplicate permits and licenses. Duplicate original permits and licenses are available from the department for a \$10 fee.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.8(17A,88B,252J,272D) Denial, suspension and revocation.

155.8(1) Grounds. In addition to the grounds in Iowa Code section 88B.8, the department may deny an application or suspend or revoke a permit or license when an investigation reasonably determines any of the following:

a. The department received a certificate of noncompliance from the centralized collection unit of the department of revenue or the child support recovery unit of the department of health and human services.

b. Penalties or other debts are owed by the applicant to the department and are 30 days or more in arrears.

155.8(2) Relinquishing license or permit. A licensee or permittee must return the original license or permit to the department when a revocation or suspension becomes final.

155.8(3) Suspension period. Unless ordered otherwise, a suspension lasts for 12 months.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

875—155.9(17A,88B) Contested cases.

155.9(1) Scope. This rule applies to civil penalty assessments and to denials, revocations and suspensions of asbestos licenses and permits.

155.9(2) Procedures. The director shall serve a notice of intended action by restricted certified mail, return receipt requested, or by other service as permitted by Iowa Code section 17A.18. A notice of contest must be received by the director within 20 days after service of the notice of intended action. If a notice of contest is not timely filed, the action stated in the notice of intended action shall automatically be effective. Hearing procedures for asbestos contested cases are set forth in 875—Chapter 1, Division V. However, if a contested case is based on receipt by the department of a certificate of noncompliance, procedures outlined in Iowa Code chapter 252J or 272D apply.

[ARC 8834C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapters 17A, 88B, 252J, and 272D.

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[Filed ARC 8834C (Notice ARC 8376C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

- ¹ Effective date of Ch 81 delayed seventy days by the Administrative Rules Review Committee.
Exception: See rule 82.11(88B).
Effective date of Ch 82 delayed seventy days by the Administrative Rules Review Committee, IAB 6/5/85.
Effective date (5/15/85) of 82.3(1) "a"(11) delayed by the Administrative Rules Review Committee until the expiration of forty-five calendar days into the 1986 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 7/31/85.

CHAPTER 156
BIDDER PREFERENCES IN GOVERNMENT CONTRACTING

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

875—156.1(73A) Purpose, scope and definitions. These rules institute administrative and operational procedures for enforcement of the Act. The definitions and interpretations contained in Iowa Code section 73A.21 shall be applicable to such terms when used in this chapter.

“*Act*” means Iowa Code section 73A.21.

“*Affiliate*,” when used with respect to any specified person or entity, means another person or entity that, either directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control or ownership with, such specified person or entity.

“*Commissioner*” means the labor commissioner appointed pursuant to Iowa Code section 91.2, or the labor commissioner’s designee.

“*Division*” means the division of labor of the department of workforce development.

“*Nonresident bidder*” means a person or entity that does not meet the definition of a resident bidder, including any affiliate of any person or entity that is a nonresident bidder.

“*Parent*,” when used with respect to any specified person or entity, means an affiliate controlling such specified person or entity directly or indirectly through one or more intermediaries.

“*Public body*” means the state and any of its political subdivisions, including a school district, public utility, or the state board of regents.

“*Public improvement*” means a building or other construction work to be paid for in whole or in part by the use of funds of the state, its agencies, and any of its political subdivisions and includes road construction, reconstruction, and maintenance projects.

“*Public utility*” includes municipally owned utilities and municipally owned waterworks.

“*Resident bidder*” means a person or entity authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement for the public improvement. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

“*Resident labor force preference*” means a requirement in which all or a portion of a labor force working on a public improvement is a resident of a particular state or country.

“*Subsidiary*,” when used with respect to any specified person or entity, is an affiliate controlled by such specified person or entity directly or indirectly through one or more intermediaries.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.2(73A) Reporting of resident status of bidders.

156.2(1) Reporting to public body. When a contract for a public improvement is to be awarded to the lowest responsible bidder, the public body shall request a statement from each bidder regarding the bidder’s resident status. The statement shall be on the form designated by the commissioner. The statement shall require the bidder to certify whether the bidder is a resident bidder or a nonresident bidder. In the case of a resident bidder, the statement shall require the resident bidder to identify each office at which the resident bidder has conducted business in the state during the previous three years and the dates on which the resident bidder conducted business at each office. In the case of a nonresident bidder, the statement shall require the nonresident bidder to identify the nonresident bidder’s home state or foreign country as reported to the Iowa secretary of state, to identify each preference offered by the nonresident bidder’s home state or foreign country, and to certify that, except as set forth on the form, there are no other preferences offered by the nonresident bidder’s home state or foreign country. The statement shall include such additional information as requested by the commissioner. The statement must be signed by an authorized representative of the bidder. A fully completed statement shall be deemed to be incorporated by reference into all project bid specifications and contract documents with any bidder on a public improvement. Failure to provide the statement with the bid may result in the bid being deemed nonresponsive. This may result in the bid being rejected by the public body.

156.2(2) *Determining residency status.*

a. For purposes of the Act, a person or entity is a resident bidder if the person or entity:

(1) Is authorized to transact business in Iowa; and

(2) Has had one or more places of business in Iowa at which it is conducting or has conducted business in this state for at least three years immediately prior to the date of the first advertisement for the public improvement.

b. If the person or entity is a resident of a state or foreign country that has a more stringent definition than is set forth in paragraph 156.2(2)“a” for determining whether a person or entity in that state or country is a resident bidder, then the more stringent definition applies.

156.2(3) *Determining authorization to transact business.* A person or entity is authorized to transact business in the state if one or more of the following accurately describes the person or entity:

a. In the case of a sole proprietorship, the sole proprietor is an Iowa resident for Iowa income tax purposes;

b. In the case of a general partnership or joint venture, more than 50 percent of the general partners or joint venture parties are residents of Iowa for Iowa income tax purposes;

c. In the case of a limited liability partnership which has filed a statement of qualification in this state, the statement has not been canceled;

d. In the case of a limited liability partnership whose statement of qualification is filed in a state other than Iowa, the limited liability partnership has filed a statement of foreign qualification in Iowa and a statement of cancellation has not been filed pursuant to Iowa Code section 486A.105(4);

e. In the case of a limited partnership or limited liability limited partnership whose certificate of limited partnership is filed in this state, the limited partnership or limited liability limited partnership has not filed a statement of termination;

f. In the case of a limited partnership or a limited liability limited partnership whose certificate of limited partnership is filed in a state other than Iowa, the limited partnership or limited liability limited partnership has received notification from the Iowa secretary of state that the application for certificate of authority has been approved and no notice of cancellation has been filed by the limited partnership or the limited liability limited partnership;

g. In the case of a limited liability company whose certificate of organization is filed in this state, the limited liability company has not filed a statement of termination;

h. In the case of a limited liability company whose certificate of organization is filed in a state other than Iowa, the limited liability company has received a certificate of authority to transact business in this state and the certificate has not been revoked or canceled;

i. In the case of a corporation whose articles of incorporation are filed in this state, the corporation (1) has paid all fees required by Iowa Code chapter 490, (2) has filed its most recent biennial report, and (3) has not filed articles of dissolution;

j. In the case of a corporation whose articles of incorporation are filed in a state other than Iowa, the corporation (1) has received a certificate of authority from the Iowa secretary of state, (2) has filed its most recent biennial report with the secretary of state, and (3) has neither received a certificate of withdrawal from the secretary of state nor had its authority revoked; or

k. The person or entity is registered with the Iowa division of labor as a construction contractor pursuant to Iowa Code chapter 91C.

156.2(4) *Determining if bidder has conducted business in state.* In order to determine if a bidder has a place of business for transacting business within Iowa at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement of the public improvement, the bidder shall meet the following criteria for the three-year period prior to the first advertisement for the public improvement:

a. Continuously maintained a place of business for transacting business in Iowa that is suitable for more than receiving mail, telephone calls, and emails; and

b. Conducted business in the state for each of those three years and filed an Iowa income tax return, if applicable, made payments to the Iowa unemployment insurance fund, if applicable, and maintained an Iowa workers' compensation policy, if applicable, in effect for each of those three years.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.3(73A) Application of preference. When awarding a contract for a public improvement to the lowest responsible bidder, the public body shall allow a preference to a resident bidder as against a nonresident bidder that is equal to any preference given or required by the home state or foreign country in which the nonresident bidder is a resident without regard to whether such preferences are actually enforced by the applicable regulatory body in each state. If the bidder is a subsidiary of a parent that would be a nonresident bidder if such parent were to bid on the public improvement in its own name, then the public body shall allow a preference as against such bidder that is equal to the preference given or required by the home state or foreign country of the bidder's parent. In the instance of a labor force preference, a public body shall apply the same resident labor force preference to a public improvement in this state as would be required in the construction of a public improvement by the home state or foreign country of the nonresident bidder, or the parent of a resident bidder if the parent would qualify as a nonresident bidder if such parent were to bid on the public improvement in its own name.

A preference shall not be applied to a subcontractor unless the home state or foreign country of the nonresident bidder to whom the contract was awarded would apply a preference to the subcontractor.

Specific methods of calculating and applying a preference shall mirror those that apply in the home state or foreign country of the nonresident bidder to whom the contract was awarded. In the event that the specific method used by the nonresident bidder's home state or foreign country cannot be determined, the calculation for a labor force preference shall include only the labor force working on the public improvement in Iowa on a regular basis calculated by pay period.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.4(73A) Complaints regarding alleged violations of the Act.

156.4(1) Complaints. Any person with information regarding a violation of the Act may submit a written complaint to the commissioner. Any complaint must provide the information required pursuant to subrule 156.4(2) or as much of such information as is reasonably practicable under the circumstances. The completed written complaint form shall be mailed to the commissioner at Labor Services Division, 150 Des Moines Street, Des Moines, Iowa 50309.

156.4(2) Written complaint form. The commissioner shall prepare a written complaint form that a person with information regarding a potential violation of the Act may submit pursuant to subrule 156.4(1). The written complaint form shall request the following information: the name, address, telephone number, and email address of the complainant; the name of the bidder that is believed to have violated the Act; a description of any relationships between the complainant and the bidder; an identification of the public body to which the bidder submitted a bid; the home state or foreign country of the bidder; a description of the goods and services provided under the bid; and such additional information as requested by the commissioner.

156.4(3) Availability of written complaint form. The written complaint form shall be available in all division offices and on the department of workforce development's website.

[ARC 1271C, IAB 1/8/14, effective 2/12/14; ARC 4639C, IAB 8/28/19, effective 10/2/19; ARC 5022C, IAB 4/8/20, effective 5/13/20]

875—156.5(73A) Nonresident bidder record-keeping requirements. While participating in a public improvement, a nonresident bidder from a home state or foreign country with a resident labor force preference shall make and keep, for a period of not less than three years, accurate records of all workers employed by the contractor or subcontractor on the public improvement. The records shall include each worker's name, address, telephone number if available, social security number, trade classification, and starting and ending date of employment.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.6(73A) Investigations; determination of civil penalty. The commissioner or an authorized designee shall cause an investigation to be made into charges of violations of the Act, including allegations set forth in a written complaint.

156.6(1) Investigative powers. The commissioner or the authorized designee shall have the following powers:

- a. *Hearings.* The commissioner may hold hearings and investigate charges of violations of the Act.

b. Entry into place of employment. The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning labor force residency, to question an employer or employee, and to investigate those facts, conditions, or matters as are deemed appropriate in determining whether any person has violated the provisions of the Act. The commissioner shall only make an entry into a place of employment in response to a written complaint.

c. Residency of workers. The commissioner may investigate and ascertain the residency of a worker engaged in any public improvement in this state.

d. Oaths; depositions; subpoenas. The commissioner may administer oaths, take or cause to be taken deposition of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, registers, payrolls, and other evidence relevant to a matter under investigation or hearing.

e. Employment of personnel. The commissioner may employ qualified personnel as are necessary for the enforcement of Iowa Code section 73A.21. The personnel shall be employed pursuant to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

f. Request for records. The commissioner shall require a contractor or subcontractor to file, within 10 days of receipt of a request, any records enumerated in rule 875—156.5(73A). If the contractor or subcontractor fails to provide the requested records within 10 days, the commissioner may direct, within 15 days after the end of the 10-day period, that the fiscal or financial office charged with the custody and disbursement of funds of the public body that contracted for construction of the public improvement or undertook the public improvement, to withhold immediately from payment to the contractor or subcontractor up to 25 percent of the amount to be paid to the contractor or subcontractor under the terms of the contract or written instrument under which the public improvement is being performed. The amount withheld shall be immediately released upon receipt by the public body of a notice from the commissioner indicating that the request for records as required by this paragraph has been satisfied.

156.6(2) Division determination. Upon conclusion of an investigation, the commissioner or an authorized designee shall issue a written determination to the party that was the subject of the investigation. The determination shall indicate whether or not the division finds a violation of the Act by the party. If the determination indicates that the party engaged in a violation of the Act, the determination shall also indicate the remedies the division intends to pursue as a result of the violation.

156.6(3) Informal conference. A party seeking review of the division's determination pursuant to this rule may file a written request for an informal conference. The request must be received by the division within 15 days after the date of issuance of the division's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the division's determination should be amended or vacated. The division shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the informal conference.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.7(73A) Remedies. Following the conclusion of the informal conference, or following the expiration of the time in which a party may file a written request for an informal conference, the division may pursue the following remedies.

156.7(1) Injunctive relief. If the division determines that a violation of the Act has occurred, the division may sue for injunctive relief against the awarding of a contract, the undertaking of a public improvement, or the continuation of a public improvement.

156.7(2) Civil penalty. Any person or entity that violates the provisions of this chapter is subject to a civil penalty in an amount not to exceed \$1,000 for each violation found in a first investigation by the division, not to exceed \$5,000 for each violation found in a second investigation by the division, and not to exceed \$15,000 for a third or subsequent violation found in any subsequent investigation by the division. Each violation of this chapter for each worker and for each day the violation continues constitutes a separate and distinct violation. In determining the amount of the penalty, the division shall consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violation(s). The collection of these penalties shall be enforced in a civil action brought by the attorney general on behalf of the division.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.8(73A) Compliance with federal law. If it is determined that application of this chapter and the Act may cause denial of federal funds which would otherwise be available for a public improvement, or would otherwise be inconsistent with requirements of any federal law or regulation, the application of this chapter shall be suspended to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.9(73A) Severability. If any rule under this chapter, any portion of a rule under this chapter, or the applicability of any rule under this chapter to any person or circumstance is held invalid by a court, the remainder of these rules or the rules' applicability to other persons or circumstances shall not be affected.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

These rules are intended to implement Iowa Code section 73A.21.

[Filed ARC 1271C (Notice ARC 1160C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]

[Filed ARC 4639C (Notice ARC 4497C, IAB 6/19/19), IAB 8/28/19, effective 10/2/19]

[Filed ARC 5022C (Notice ARC 4894C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]

CHAPTERS 157 to 159
Reserved

CHAPTER 160
EMPLOYER REQUIREMENTS FOR
NON-ENGLISH SPEAKING EMPLOYEES

[Prior to 10/21/98, see 347—Ch 160]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—160.1(91E) Purpose and scope. These rules apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.2(91E) Definitions. The definitions in Iowa Code section 91E.1 are adopted with the following clarifications or additions:

“*Act*” means the non-English speaking employee services Act, Iowa Code chapter 91E.

“*Applicant*” means an employer, employee, or non-English speaking employee as those terms are defined in the Act.

“*Business day*” means those days an office is open and staffed with the person(s) capable of processing employees’ requests for transportation provided in Iowa Code section 91E.3(2).

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Work site*” means a single physical location where business is conducted or where services or industrial operations are performed (e.g., a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office).

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.3(91E) Knowledge of English. An employee who can understand the following in English is not covered by these rules:

160.3(1) The hours of work.

160.3(2) The hourly wage.

160.3(3) All mandatory and elective benefits.

160.3(4) The job duties.

160.3(5) The safety and health risks of the job and appropriate methods of protection.

160.3(6) Information and training on hazardous chemicals in the employee’s work area.

160.3(7) Safety signs and symbols that warn of potential dangers and hazards at the work site.

160.3(8) The purpose of forms used by the employer including:

a. Orientation,

b. Insurance,

c. Accidents at the work site, and

d. Other forms the employee is required to complete or answer.

160.3(9) The employer’s requirement to provide an interpreter if more than 10 percent of the employer’s employees speak the same non-English language.

160.3(10) Communication with a nurse or other medical personnel at the work site.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.4(91E) Community services referral agent requirements.

160.4(1) *Referral agent available.* The employer provides to employees at each work site the name of the person who is designated as having the primary responsibility as the referral agent. The information shall be provided in the language of the non-English speaking employees.

160.4(2) *Referral agent’s responsibilities.* The primary responsibility of the person employed as the employer’s referral agent is to develop and maintain a list of contact persons and agencies, telephone numbers, and addresses of the community services provided in the work site’s community. The referral agent assists non-English speaking employees in working with and through those services.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.5(91E) Exemptions.

160.5(1) An applicant desiring an exemption may file a written application with the director that shall include:

- a.* The name, address and telephone number of the applicant;
- b.* The address or location of the work site affected;
- c.* A description of the operation or type of work site;
- d.* A listing of the section of the Act or rules to which the exemption would apply;
- e.* A representation of the impact of compliance on the part of the applicant;
- f.* A representation of why the exemption would be reasonable;
- g.* If the applicant is an employer, a description of how employees and non-English speaking employees have been informed of the application and their rights to petition the director for a hearing;
- h.* If the applicant is an employee or non-English speaking employee, a description of how the employer has been informed of the application and the employer's rights to petition the director for a hearing;
- i.* A request for a hearing if one is desired; and
- j.* Any other information the director may request.

160.5(2) At the time the application is received, the director shall promptly provide the applicant with a notice of receipt of application that shall be posted where notices are customarily posted for employees. If the applicant is an employee or non-English speaking employee, the employer shall post the notice when provided to the employer.

160.5(3) If the applicant is an employer, any affected employee or an affected non-English speaking employee may request a hearing. If the applicant is an employee or a non-English speaking employee, the affected employer may request a hearing. Any request for a hearing on the application is made by notifying the director within 14 calendar days of posting the notice.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.6(91E) Inspections. This rule pertains to enforcement of the Act.

160.6(1) Inspections shall take place at the times and places directed by the commissioner.

160.6(2) Inspections may be conducted without prior notice.

160.6(3) The commissioner may interview persons at the work site and utilize other reasonable inspection techniques including but not limited to correspondence, telephone conversation, review of written materials, and physical inspection of the work site.

160.6(4) Unnecessary disruptions to the operations at the work site will be avoided.

160.6(5) In the event the commissioner is not permitted to fully conduct an inspection, an administrative warrant may be sought.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

875—160.7(91E) Enforcement and penalties. If the director finds a violation subject to a civil penalty, the director will issue a notice of violation to the employer and propose a civil penalty that shall be sent to the employer by certified mail. The employer has 14 calendar days from receipt of the notice of violation or proposed civil penalty to inform the director by mail of the intent to contest the notification or proposed penalty. After receipt of the employer's notification, the director will afford the employer the opportunity for a hearing.

[ARC 8753C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 91E.

[Filed emergency 6/8/90—published 6/27/90, effective 7/1/90]

[Filed 11/9/90, Notice 6/27/90—published 11/28/90, effective 1/2/91]

[Filed ARC 2489C (Notice ARC 2389C, IAB 2/3/16), IAB 4/13/16, effective 5/18/16]

[Filed ARC 6986C (Notice ARC 6771C, IAB 12/28/22), IAB 4/19/23, effective 5/24/23]

[Filed ARC 8753C (Notice ARC 8274C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTERS 161 to 168
Reserved

ATHLETICS COMMISSIONER

CHAPTER 169

GENERAL REQUIREMENTS FOR ATHLETIC COMMISSION EVENTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—169.1(90A) Scope and application. Unless otherwise noted, this chapter applies to each event covered by Iowa Code chapter 90A.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.2(92) Definitions. The following definitions apply to 875—Chapters 169 through 177:

“*Commissioner*” means the state commissioner of athletics, who is also the director of the department of inspections, appeals, and licensing, or the director’s designee.

“*Physician*” includes a physician assistant unless otherwise noted.

“*Professional wrestling*” is an exhibition in which the participants display their skills in a physical struggle against each other for entertainment and does not comprise a bona fide athletic contest or competition.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.3(90A) Prohibited events. No promoter shall arrange or advertise:

169.3(1) A match between persons of the opposite sex;

169.3(2) A match between more than two contestants; or

169.3(3) A match with a contestant who is younger than 18 years of age.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.4(90A) Advance notice of event. A promoter shall submit advance notice of an event, other than a professional wrestling event, to the commissioner on the form provided by the commissioner at least 60 days prior to the event but not more than six months prior to the event. The advance notice includes:

169.4(1) The date, time, type, and location of the event;

169.4(2) The promoter’s name and contact information;

169.4(3) One-half of the required event license fee;

169.4(4) Whether the event is indoors or outdoors; and

169.4(5) Other relevant information requested by the commissioner on the form.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.5(90A) Event license. A promoter may hold a mixed martial arts match, professional boxing match, or wrestling match only if the commissioner has issued an event license.

169.5(1) Application. The promoter shall submit a completed application for a license on the form provided by the commissioner.

a. For a professional wrestling event, the application shall be submitted at least seven days prior to the event and include each of the following:

(1) The promoter’s name, address, telephone number and other contact information as requested by the commissioner;

(2) The event date, venue name, and venue address;

(3) A nonrefundable \$100 event license fee;

(4) The promoter’s signature; and

(5) A bond as described in subparagraph 169.5(1)“*b*”(10).

b. For any other covered event, the application shall be submitted at least 60 days prior to the event and include each of the following:

(1) The date, time, type, and location of the event;

(2) The promoter’s name, address, and contact information;

(3) One-half of the required event license fee;

(4) A copy of the medical license of the ringside physician or physician assistant;

- (5) The date, time, and location for the weighing of the contestants;
- (6) The emergency medical services company, and the security company;
- (7) The name and contact information for the certified law enforcement officer who will attend the event;
- (8) The date, time, and location of the ringside physician's or physician assistant's examination of the contestants;
- (9) Certificates of insurance;
- (10) A bond in the sum of \$5,000, payable to the State of Iowa, conditioned upon the payment of the tax and penalties imposed by Iowa Code chapter 90A, unless the promoter has a current valid bond on file with the department;
- (11) The name and telephone number of the person designated to clean between rounds; and
- (12) Other information requested by the commissioner.

169.5(2) *Event license fees.* The nonrefundable event license fee is \$100 for a professional wrestling event and \$450 for all other covered events. A professional wrestling promoter shall submit the event license fee with the event license application at least 7 days prior to the event. For all other covered events, the promoter shall submit one-half of the event license fee with the advance notice of the event at least 60 days prior to the event, and one-half of the event license fee with the event license application at least 7 days prior to the event.

169.5(3) *Issuance.* The decision to issue an event license is solely within the discretion of the commissioner. The following factors will be considered by the commissioner when deciding whether to issue an event license:

- a. Date the promoter filed advance notice of event.
- b. The promoter's prior compliance with Iowa Code chapter 90A and applicable rules.
- c. Applications for conflicting events.
- d. Ability of the commissioner to provide staff.
- e. The promoter's history of canceling events.
- f. Anticipated tax revenue.
- g. Completeness of application package.
- h. Whether the event is indoors or outdoors.

169.5(4) *Revocation.* When the commissioner finds that failure to provide adequate security to maintain public safety requires emergency action, the commissioner may immediately suspend the event license, pending license revocation procedures pursuant to Iowa Code chapter 17A.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.6(90A) Promoter responsibilities. The promoter of a professional wrestling event is responsible for subrules 169.6(1) through 169.6(6). All other promoters are responsible for each of the following:

- 169.6(1)** Ensure compliance with Iowa Code chapter 90A and applicable rules.
- 169.6(2)** Ensure that the referees are familiar with and enforce the rules.
- 169.6(3)** Be responsible for the conduct and attendance of all officials and participants.
- 169.6(4)** Ensure that adequate public safety is maintained at all events. Adequate personnel provided by a private security company and at least one certified law enforcement officer shall be furnished by the promoter.
- 169.6(5)** Ensure that a referee inspects the gloves, bandages, and body of each contestant for foreign substances that might be detrimental to an opponent.
- 169.6(6)** Ensure that contestants have closely trimmed fingernails.
- 169.6(7)** Provide officials and participants who are subject to approval by the commissioner.
- 169.6(8)** Be available to the commissioner throughout an event or identify a designee who will be:
 - a. Available to the commissioner throughout an event; and
 - b. Authorized by the promoter to address issues that may arise.
- 169.6(9)** Enter into a written contract with each contestant using the form furnished by the commissioner. Other adequate proof of acceptance of terms will be considered an agreement between a contestant, the contestant's manager and the promoter, pending the actual signing of the contract.
- 169.6(10)** Provide appropriate gloves.

169.6(11) Provide and maintain a container with a solution able to clean bodily fluids from any part of the cage, cage enclosure, or floor.

169.6(12) Ensure that an ambulance and ambulance service authorized at the EMT-B, EMT-I, EMT-P or paramedic specialist level are present at the event. A promoter is fully responsible for all charges assessed by the ambulance service related to the event except:

- a. Charges covered by insurance.
- b. Charges for services provided to persons other than participants and officials.

169.6(13) Ensure that contestants are wearing appropriate attire, gloves, and other necessary equipment.

169.6(14) Provide a suitable, clean, and private space for contestants to change clothes.

169.6(15) Submit to the ringside physician or physician assistant no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within 12 months prior to the event. The contestant shall not participate and the physician or physician assistant shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

- a. The promoter does not produce timely proof of testing;
- b. The test results are positive;
- c. The laboratory is not properly certified;
- d. The test was performed more than 12 months prior to the event; or
- e. The test results are otherwise deficient.

169.6(16) Obtain from a company authorized to do business in the state of Iowa \$10,000 of health insurance coverage on each contestant to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. If there is a deductible, it shall not exceed \$1,500. If the contestant pays for covered care, the insurance proceeds shall be paid to the contestant or the contestant's beneficiaries as reimbursement for payment. In the event of a claim, payment of the deductible is the sole responsibility of the promoter.

169.6(17) Obtain from a company authorized to do business in the state of Iowa no less than \$10,000 of life insurance coverage on each contestant to cover death caused by injuries sustained or illnesses contracted during the event.

169.6(18) No later than the day of the event, ensure that each contestant makes available to the commissioner's representative suitable proof of age consisting of one of the following documents:

- a. A certified birth certificate;
- b. A passport;
- c. A certified baptismal record;
- d. A U.S. visa;
- e. An identification card issued to the contestant by a governmental entity and that includes the contestant's photograph and birth date; or
- f. A U.S. resident alien card.

169.6(19) Ensure that participants and officials behave in a professional manner at all times.

169.6(20) Ensure that participants and officials refrain from:

- a. Fighting with anyone other than a scheduled opponent;
- b. Fighting outside the ring;
- c. Throwing objects; and
- d. Making obscene gestures.

169.6(21) Establish through mixedmartialarts.com that no contestant on an amateur card has participated in a reported professional mixed martial arts match.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

875—169.7(90A) Taxes. No later than 20 days after an event, a promoter shall file with the commissioner a report and pay all taxes due from the event. The report is submitted on the form provided by the commissioner and includes the promoter's business name, name of a contact for the promoter, date of the event, event license number, location of the event, each price for which tickets were offered or sold,

number of tickets sold at each price, total gate receipts, and signatures of the licensee and the person who completed the report. The promoter shall submit with the report:

169.7(1) Proof of the number of tickets sold and the price of each ticket, which includes appropriate documentation from a ticketing service, if applicable.

169.7(2) Payment to the Iowa department of inspections, appeals, and licensing for the amount calculated using the report.

[ARC 8835C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 90A.

[Filed ARC 1240C (Notice ARC 1107C, IAB 10/16/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 6760C (Notice ARC 6599C, IAB 10/19/22), IAB 12/28/22, effective 2/1/23]

[Filed ARC 6986C (Notice ARC 6771C, IAB 12/28/22), IAB 4/19/23, effective 5/24/23]

[Filed ARC 8835C (Notice ARC 8377C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 170
OPERATIONS OF ADVISORY BOARD

[Prior to 10/21/98, see 347—Ch 94]

[Prior to 8/16/06, see 875—Ch 94]

Rescinded **ARC 8836C**, IAB 1/22/25, effective 2/26/25

CHAPTER 171
GRANT APPLICATIONS AND AWARDS

[Prior to 10/21/98, see 347—Ch 95]

[Prior to 8/16/06, see 875—Ch 95]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—171.1(90A) Scope. This chapter establishes rules of the commissioner of athletics (commissioner) for the distribution of revenues collected from a professional boxing event pursuant to Iowa Code section 90A.9.

[ARC 8837C, IAB 1/22/25, effective 2/26/25]

875—171.2(90A) Application process.

171.2(1) The commissioner shall announce the opening of the application process by public notice.

171.2(2) All amateur boxing organizations seeking grant funds must submit an application to the commissioner on forms provided by the commissioner.

171.2(3) Contents. Each application shall contain:

a. A plan of action that details how the awarded funds will be spent and what results and benefits are expected. The action plan includes:

- (1) Grant goals, objectives, timeliness, responsible individuals, and evaluation.
- (2) Establishing an end result that is beneficial to the sport of amateur boxing.
- (3) Number of projected amateur boxing matches to be promoted by the applicant.

b. A budget detailing how the grant funds will be expended.

c. Assurances the applicant will comply with the conditions and procedures for grant administration.

d. A plan for evaluation.

e. Assurances the funds will not be used to retire preexisting financial obligations.

f. Assurances the applicant will comply with the conditions for financial management.

[ARC 8837C, IAB 1/22/25, effective 2/26/25]

875—171.3(90A) Grant process.

171.3(1) The commissioner shall notify successful applicants and provide to each of them a contract for signature. This contract shall be signed by an official with authority to bind the applicant and be returned to the commissioner prior to the award of any funds under this program.

171.3(2) If the applicant and the commissioner are unable to successfully negotiate a contract, the commissioner may withdraw the award offer.

171.3(3) Applications shall be received by May 1 of each calendar year for an award the following fiscal year. Payment will be processed within 60 days of a grant award by the commissioner.

171.3(4) Grants are awarded for a 12-month period and may be renewed for a second year.

[ARC 8837C, IAB 1/22/25, effective 2/26/25]

875—171.4(90A) Evaluation. The grantee shall cooperate with the commissioner and periodically provide requested information to determine how the goals and objectives of the project are being met.

[ARC 8837C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code section 90A.7.

[Filed 10/10/91, Notice 8/7/91—published 10/30/91, effective 12/6/91]

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed ARC 1240C (Notice ARC 1107C, IAB 10/16/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 8837C (Notice ARC 8387C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 172
PROFESSIONAL WRESTLING

[Prior to 9/24/86, Athletics Commissioner[110] Ch 1]

[Prior to 10/21/98, see 347—Ch 96]

[Prior to 8/16/06, see 875—Ch 96]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—172.1(90A) General requirements. Applications for event licenses and promoter responsibilities for professional wrestling are in 875—Chapter 169.

[ARC 8838C, IAB 1/22/25, effective 2/26/25]

875—172.2(90A) Separation of boxing and wrestling. No boxing bouts shall be permitted in any professional wrestling show, nor shall any wrestling bouts be permitted in any boxing show.

[ARC 8838C, IAB 1/22/25, effective 2/26/25]

875—172.3(90A) Safety.

172.3(1) The promoter shall ensure that no one is permitted to wrestle who has any illness or disability that interferes with or prevents the participant from giving a full, complete and satisfactory exhibition of ability and skill, or endangers the wrestler's health or the health of the participant's opponent.

172.3(2) A promoter shall not permit participants to intentionally cut their own skin or the skin of another during the exhibition.

172.3(3) A promoter shall ensure that all areas in which wrestling takes place are matted, equipped, separated from spectators, and otherwise maintained in such a manner as necessary to assure a reasonable degree of safety to the participants and spectators.

172.3(4) In no event shall a participant be permitted to engage in any conduct endangering the health, safety, or well-being of any spectator.

172.3(5) A wrestler may not possess inherently dangerous accessories.

[ARC 8838C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 90A.

[Filed 2/9/71]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed ARC 1240C (Notice ARC 1107C, IAB 10/16/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 8838C (Notice ARC 8391C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 173
PROFESSIONAL BOXING

[Prior to 9/24/86, Athletics Commissioner[110] Ch 2]

[Prior to 10/21/98, see 347—Ch 97]

[Prior to 8/16/06, see 875—Ch 97]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—173.1(90A) Limitation of rounds. Ten rounds is the maximum number of rounds for a boxing bout, except for a championship match that may not exceed 15 rounds. Three minutes of boxing will constitute a round, or, by special permission of the commissioner, two minutes. There will be a rest period of one minute between rounds.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.2(90A) Weight restrictions. Permission must be received from the commissioner before a contestant will be permitted to box an opponent 18 pounds heavier than the boxer in the welterweight or middleweight classes or 6 pounds heavier than the boxer in or under the lightweight class.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.3(90A) Injury. If a contestant claims to be injured during the bout, the referee shall stop the bout and request that the attending physician make an examination. If the physician decides that the contestant has been injured as the result of a foul, the physician shall advise the referee of the injury. If the physician is of the opinion that the injured contestant may be able to continue, the physician shall order a five-minute intermission, after which the physician shall make another examination and again advise the referee of the injured contestant's condition. It is the duty of the promoter to have an approved physician in attendance during the entire duration of all bouts.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.4(90A) Knockdown. If a contestant falls due to fatigue or is knocked down by the opponent, the contestant shall be allowed ten seconds in which to rise unassisted. When a contestant falls, the opponent shall go to the farthest neutral corner and remain there during the ten-second count. The referee shall stop counting should the opponent fail to go to a neutral corner.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.5(90A) Limitation on number of bouts. Any boxing contestant who has agreed to take part in a bout of five rounds or more is not permitted to participate in any other bout in Iowa or elsewhere five days prior to the date of the bout unless given permission by the commissioner.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.6(90A) Contestants' arrival. All main event contestants shall be in the city or locale at least 24 hours before the scheduled time of the bout or contest. The promoter shall advise the commissioner of the arrival time. Any exception to this rule shall be approved by the commissioner.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.7(90A) Persons allowed in the ring. No person other than the contestants and the referee may enter the ring during the bout, excepting the seconds between the rounds or the attending physician if asked by the referee to examine an injury to a contestant.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.8(90A) Protection of hands. Only one roll of cotton gauze surgical bandage, not to exceed 2 inches in width and 10 yards in length, shall be used for the protection of each hand. Only one winding of surgeons' adhesive tape not more than 1½ inches in width may be placed directly on the hand to protect that part of the hand near the wrist. Said tape may cross the back of the hand twice, but not extend within 1 inch of the knuckles when the hand is clenched to make a fist.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.9(90A) Scoring. Twenty points will be the maximum number to be scored in any round. The contestant winning the round will receive ten points and the opponent proportionately less. If the round is even, each contestant will receive ten points.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.10(90A) Gloves. The gloves must not be twisted or manipulated in any way by the contestants or their handlers. If a glove breaks or a string becomes untied during the bout, the referee will instruct the timekeeper to take time out while the glove is being adjusted.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.11(90A) Proper attire. Contestants must wear proper athletic attire. Athletic attire of opposing contestants shall be of contrasting colors. Male contestants shall wear a foul proof protective cup. Female contestants shall wear foul proof pelvic area protection and breast protection.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.12(90A) Use of substances. Excessive use of cocoa butter, petroleum jelly, grease, ointments or strong-smelling liniment by a contestant in a bout will not be permitted.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.13(90A) “Down.” A boxer will be deemed down when:

1. Any part of the boxer’s body other than the boxer’s feet is on the ring floor or while rising from a down position.
2. The boxer is hanging helplessly over the ring ropes, but then is not officially down until so pronounced by the referee, who may count the boxer out either on the ropes or on the floor.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.14(90A) Foul. The following activities will be deemed a foul:

1. Hitting below the belt or after the bell has ended the round.
2. Hitting an opponent who is down or who is getting up after being down.
3. Holding an opponent or deliberately maintaining a clinch.
4. Holding an opponent with one hand and hitting with the other hand.
5. Butting with head or shoulders or using the knee.
6. Hitting with inside or butt of the hand, the wrist or the elbow and all backhand blows.
7. Hitting or “flicking” with the open glove or thumbing.
8. Wrestling or roughing at the ropes.
9. Purposely going down without being hit.
10. Striking deliberately at that part of the body over the kidneys.
11. Use of the pivot blow or rabbit punch.
12. Use of abusive or profane language.
13. Failure to obey the referee, or any physical actions that may injure a contestant, except by fair sportsmanlike boxing.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.15(90A) Penalties. The referee will penalize a contestant who commits any foul by deducting points from the contestant’s score for the round in which the foul is committed. If, in the referee’s judgment, the foul is of a serious nature or intentionally inflicted, the referee may award the bout to the contestant who was fouled.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.16(90A) Weight classes. Scale of weights:

	[Pounds]
Flyweight	112
Bantamweight	118

Featherweight	126
Lightweight	135
Welterweight	147
Middleweight	160
Light heavyweight	175
Heavyweight	Over 175

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.17(90A) Attendance of commissioner. At each boxing card, the commissioner or the commissioner’s designee shall be in attendance.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.18(90A) Weighing of contestants. Contestants shall be weighed and examined on the day of the scheduled match by the attending ring physician, at a time and place as allowed by the commissioner. Preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weigh-ins will be conducted with the boxer stripped.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.19(90A) General requirements. The commissioner will not approve bout permits for bouts on Christmas Day. “Battles royal” or bouts in which more than two boxing contestants are to appear in the ring at the same time will not be approved. In programs where both amateur and professional contestants appear on the same card, there shall be no more than four amateur bouts of three rounds each. The amateur contests will be under the complete control and supervision of the United States of America Amateur Boxing Federation authority. On each card containing amateur and professional contests, there shall be at least an equal or greater number of bouts of professional boxing. The amateur section of the card shall be held first with at least a 15-minute intermission between the amateur and professional events.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.20(90A) Excessive coaching. Excessive coaching and other detracting activities by seconds, managers or trainers while the bouts are in progress are prohibited. Offenders will be warned and if the violation continues, the offending contestant may be charged with a foul and a loss of points.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.21(90A) Abusive language. The use of foul or abusive language or mannerisms by any person associated with any bout will not be tolerated.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.22 to 173.24 Reserved.

875—173.25(90A) Ring requirements. The ring is not less than 16 nor more than 22 feet square within the ropes, elevated 3½ feet above the floor and has suitable access by steps.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.26(90A) Ring posts. The ring posts will be constructed of metal not more than 4 inches in diameter, extend from the floor of the building to the height of 58 inches above the ring floor and be fastened securely to the floor or to the other posts.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.27(90A) Ropes. The ropes will be a minimum of 3 in number, extending in a triple line 18 inches, 35 inches and 52 inches from the floor of the ring; at least 1 inch in diameter; and wrapped in soft materials. The ropes may not be closer to the ring posts than 18 inches. If 4 ropes are used, they will be proportionately spaced.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.28(90A) Ring floor. The ring floor will extend beyond the lower rope for a distance of at least 18 inches. The entire floor will be padded to the thickness of at least 1 inch with felt, corrugated paper, matting or other soft materials to be approved by the commissioner. A canvas covering stretched tightly and laced to the ring platform will cover the padding.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.29(90A) Bell. A suitable bell or gong shall be provided and used.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.30(90A) Gloves. Gloves shall not weigh less than 8 ounces for professional bouts and must be new for all main events and bouts of ten rounds or greater. All gloves shall be furnished by the promoter.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.31(90A) Referee's duties. The referee is charged with the enforcement of all rules of the commissioner that apply to the performance and conduct of contestants and their seconds while in the ring.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.32(90A) Chief second. Before starting each bout the referee shall ascertain the name of the chief second in each corner and will hold the chief second responsible for all conduct in the corner.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.33(90A) Naming referee. The promoters will be permitted to name a referee subject to approval by the commissioner.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.34(90A) Reasons for stopping bout. The referee shall stop a bout when the referee deems it advisable because of the physical condition of one or both of the contestants, when one of the contestants is clearly outclassed by an opponent, when the referee decides that the best effort is not being made by a contestant, or for any other reason the referee deems sufficient.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.35(90A) Forfeit of purse. The referee has the power to declare forfeited all or any part of a contestant's purse whenever in the referee's judgment the contestant is not performing in good faith.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.36(90A) Shaking hands. The contestants in all boxing bouts will be instructed by the referee to shake hands after the referee's final instructions and not to do so again until the start of the last scheduled round.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.37(90A) Assessing fouls. The referee will instruct the judges to mark their scorecards accordingly when the referee has assessed a foul and deduct a point from one of the contestants.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.38(90A) Delaying prohibited. The referee shall ensure that a bout is not delayed except to handle damaging fouls. A contestant who employs delay and avoiding tactics will be penalized in the scoring.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.39(90A) Count. When a fallen contestant rises and falls again, without being hit again, the referee shall continue the original count rather than starting a new count.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.40(90A) Intentional foul. In assessing fouls, the referee will weigh the cause as well as the act. A contestant who intentionally receives a foul will be penalized as if they committed the foul.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.41(90A) Use of the ropes. The referee shall penalize a contestant who uses the ropes to gain advantage. The penalty is the deduction of points, and a warning to the contestant against continued use of the ropes to gain advantage.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.42(90A) Attending ring physician. When a boxer has been injured seriously, knocked out or technically knocked out, the referee shall immediately summon the attending ring physician to aid the stricken boxer. Managers, handlers and seconds shall not attend to the stricken boxer, except at the request of the physician.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.43(90A) Technical knockout. Except for championship fights of national recognition, the referee shall stop the fight after a fighter is knocked down three times in one round and declare the opponent a winner on a technical knockout (TKO).

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.44(90A) Timekeeper. The timekeeper shall provide a stopwatch and maintain an accurate time of all bouts. The timekeeper will keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, replacing a glove or adjusting any equipment during a round. The timekeeper shall provide a whistle and sound the whistle ten seconds before the start of each round of boxing bouts. The timekeeper shall be impartial.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.45(90A) Seconds. Unless special permission is given by the commissioner, there will not be more than two seconds. Before the start of the bout, each corner shall notify the referee of the name of the chief second.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.46(90A) Requirements for seconds. Seconds shall not enter the ring until the timekeeper indicates the end of the round and they must leave at the sound of the timekeeper's whistle before the beginning of each round. If the chief second or anyone for whom the promoter is responsible, such as a manager, enters the ring before the bell ending the round has sounded, the fight shall be ended and the decision awarded to the opponent. Seconds shall not smoke in the ring or corners.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.47 to 173.49 Reserved.

875—173.50(90A) Use of water. Seconds shall not throw or splash water upon a contestant. A wet sponge may be used between rounds to refresh the contestant. Excess water on the floor of the ring shall be wiped up immediately by the seconds. Water discharged from the mouth of a contestant shall be caught in a bucket.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.51(90A) Stopping the fight. The throwing of a towel into the ring to indicate the defeat of a contestant will not be recognized by the referee. The fight will be stopped when the second or manager appears on the ring apron.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.52(90A) Removing objects from ring. Before leaving the ring at the start of each round the seconds shall remove all obstructions, buckets, stools, bottles, towels and robes from the ring floor and ropes.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.53(90A) Decision. Each judge shall reach a decision without conferring in any manner with any other official or person. Each judge will make out a scorecard in accordance with the rules governing

boxing. At the end of the bout, the decision shall be written on the scorecard and the card shall be given to the commissioner or designee for verification who will then hand the cards to the referee who will then announce the decision. The winner is determined by the majority vote of the three judges, and each judge selects a choice based on the highest number of points.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

875—173.54(90A) Boxer registration. The commissioner participates in the Association of Boxing Commissions (ABC) national boxer registration system that allows authorities from different states to share information concerning boxers. The issuance of a registration card to a boxer does not guarantee the right to participate in a match.

173.54(1) Application. A boxer applies for registration in the state where the boxer resides, unless the state where the boxer resides does not participate in the ABC registration system. A person applying for a new or renewal boxer registration completes, signs, and submits to the commission the ABC Boxer's Federal Identification Card Application.

173.54(2) Attachments. With the application, the applicant submits a \$25 fee, two 1" × 1.5" color photographs of the applicant's head, and a copy of a photo identification issued to the applicant by a governmental entity and containing the applicant's photograph and social security number or similar foreign identification number. The applicant must be recognizable in the photographs.

173.54(3) Expiration. The registration expires two years from the date of issuance.

173.54(4) Changes. The boxer shall notify the commission at the time any of the information on the form changes.

173.54(5) Denials. The commissioner may refuse to issue or renew a boxer registration for failure to complete an application package properly.

[ARC 8839C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 90A.

[Filed 2/10/71]

[Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed emergency 4/29/91—published 5/29/91, effective 5/1/91]

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed 1/12/07, Notice 12/6/06—published 1/31/07, effective 3/7/07]

[Filed 5/16/07, Notice 4/11/07—published 6/6/07, effective 7/11/07]

[Filed ARC 8916B (Notice ARC 8752B, IAB 5/5/10), IAB 6/30/10, effective 8/4/10]

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[Filed ARC 6760C (Notice ARC 6599C, IAB 10/19/22), IAB 12/28/22, effective 2/1/23]

[Filed ARC 8839C (Notice ARC 8385C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 174
ELIMINATION TOURNAMENTS

[Prior to 9/24/86, Athletics Commissioner[110] Ch 3]

[Prior to 10/21/98, see 347—Ch 98]

[Prior to 8/16/06, see 875—Ch 98]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—174.1(90A) Purpose and scope. These rules apply to elimination tournaments, which are boxing matches where contestants box one another, two at a time, with one contestant eliminated from the tournament. The elimination continues with winners from the various bouts competing until only one contestant remains undefeated in the weight division. Elimination tournaments are governed by the rules in 875—Chapter 173 and this chapter. Any conflicts between 875—Chapter 173 and this chapter will be resolved in favor of this chapter.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.2(90A) Bouts, rounds and rest periods.

174.2(1) Each bout consists of no more than three rounds. Each round is two minutes in length. A rest period of 90 seconds shall be provided between rounds. No contestant shall be permitted to compete in more than three bouts in any 20-hour period.

174.2(2) In national elimination tournaments, when the ability and conditioning of the contestants are assured, the athletics commissioner may authorize two contestants to participate in a fourth bout that determines the championship, provided all bouts are comprised of three 90-second rounds. Under no circumstances will any participant be permitted to compete more minutes in any one 20-hour period than is authorized under the rule allowing three bouts consisting of three two-minute rounds as set forth in this rule.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.3(90A) Required protective equipment.

174.3(1) Hand protection. Practice wraps (training hand wraps) may be used in lieu of compliance with 875—Chapter 173. Gloves weighing 16 ounces shall be worn by both contestants.

174.3(2) Body protection. All male contestants shall wear a foul proof protective cup. All female contestants shall wear foul proof pelvic area protection and breast protection.

174.3(3) Head protection. The promoter shall provide and the contestants shall wear protective headgear unless the contestant signs a waiver from it.

174.3(4) Mouth protection. A mouthpiece shall be worn by all contestants throughout the bout. If the mouthpiece is knocked from a contestant's mouth, it shall be replaced with no penalty. Any contestant who deliberately spits out a mouthpiece shall be cautioned the first time, the referee shall deduct one point from each judge's scorecard the second time and the contestant will be disqualified the third time. Before being replaced, the mouthpiece will be washed.

174.3(5) Hair protection. Where necessary, hair will be secured in a manner that it will not interfere with the vision or safety of either contestant.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.4(90A) Weight restrictions. Permission must be received from the commissioner before any contestant will be permitted to box an opponent with a weight differential greater than the following:

Contestants	Weight Differential
Under 135 pounds	6 pounds
135-160 pounds	12 pounds
160-190 pounds	18 pounds
Over 190 pounds	No restriction

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.5(90A) Down. In determining a technical knockout (TKO) under 875—Chapter 173, a down includes a standing eight count where a contestant is still standing but is in a semiconscious state and cannot, in the opinion of the referee, continue the bout.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.6(90A) Suspension. A contestant who suffers a knockout or where the referee stops a fight on a technical knockout (TKO) shall not be permitted to box in the state for a period of 30 days. Before being permitted to fight again, the contestant shall be examined by a physician or physician assistant approved by the commissioner.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.7(90A) Training requirements. Each contestant will have been involved in conditioning for at least 30 days prior to competing in any elimination tournament. Conditioning means a combination of roadwork or jogging and usual training center conditioning exercises. The promoter shall obtain from each contestant prior to the physical examination a written declaration from the contestant, witnessed by at least one other person, that the contestant has met these training requirements.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.8(90A) Judges. Three judges, each located on different sides of the ring, will separately score bouts. The referee will not be permitted to act as a judge in scoring a bout.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.9(90A) Impartiality of timekeeper. The use of lights on each ring post to indicate the final seconds of a round shall not be considered as signals to interested parties. Corner lights may be used only if consistently activated throughout the elimination tournament and all contestants and officials are informed prior to the start of the tournament about the information conveyed by the round lights.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

875—174.10(90A) Ringside. No person may sit or stand at ringside unless authorized by the commissioner.

[ARC 8840C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code sections 90A.2 and 90A.5.

[Filed emergency 5/4/81—published 5/27/81, effective 5/4/81]

[Filed 1/8/82, Notice 11/25/81—published 2/3/82, effective 3/10/82]

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[Filed ARC 1240C (Notice ARC 1107C, IAB 10/16/13), IAB 12/11/13, effective 1/15/14]

[Filed ARC 6760C (Notice ARC 6599C, IAB 10/19/22), IAB 12/28/22, effective 2/1/23]

[Filed ARC 8840C (Notice ARC 8392C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 175
AMATEUR BOXING

[Prior to 9/24/86, Athletics Commissioner[110] Ch 4]

[Prior to 10/21/98, see 347—Ch 99]

[Prior to 8/16/06, see 875—Ch 99]

Rescinded **ARC 8841C**, IAB 1/22/25, effective 2/26/25

CHAPTER 176
PROFESSIONAL KICKBOXING

[Prior to 10/21/98, see 347—Ch 100]

[Prior to 8/16/06, see 875—Ch 100]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—176.1(90A) Scope and purpose. Professional kickboxing is a contest within the scope of Iowa Code chapter 90A. The commissioner shall have final decision-making authority concerning the enforcement, implementation, and interpretation of the rules in this chapter.

[ARC 8842C, IAB 1/22/25, effective 2/26/25]

875—176.2(90A) GLORY rules adopted by reference. The commissioner adopts by reference the kickboxing rules and regulations of GLORY Kickboxing as of January 1, 2023. The GLORY Kickboxing rules shall be used for all GLORY Kickboxing matches and events.

[ARC 8842C, IAB 1/22/25, effective 2/26/25]

875—176.3(90A) Professional boxing rules followed. Professional kickboxing will conform to the rules in 875—Chapter 173 on:

1. Limitations on number of bouts;
2. Contestants' arrival; and
3. Attendance of commissioner.

[ARC 8842C, IAB 1/22/25, effective 2/26/25]

875—176.4(90A) Additional provisions.

176.4(1) Officials. The designation of officials, referees, physicians, physician assistants, timekeepers, judges, kick counters, scorekeepers, contestants, seconds, and managers is subject to the approval of the commissioner or designee.

176.4(2) “Battles royal” or bouts in which more than two kickboxing contestants are to appear in the ring at the same time shall not be approved.

[ARC 8842C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code chapter 90A.

[Filed emergency 9/11/87—published 10/7/87, effective 9/11/87]

[Filed 12/11/87, Notice 10/7/87—published 12/30/87, effective 2/3/88]

[Filed 7/26/06, Notice 5/10/06—published 8/16/06, effective 9/20/06]

[Filed ARC 6760C (Notice ARC 6599C, IAB 10/19/22), IAB 12/28/22, effective 2/1/23]

[Filed ARC 6986C (Notice ARC 6771C, IAB 12/28/22), IAB 4/19/23, effective 5/24/23]

[Filed ARC 8842C (Notice ARC 8390C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

CHAPTER 177
MIXED MARTIAL ARTS

[Prior to 10/21/98, see 347—Ch 101]

[Prior to 8/16/06, see 875—Ch 101]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/26/30

875—177.1(90A) Definitions. The definitions contained in Iowa Code chapter 90A and the definitions in this rule apply to this chapter.

“*Complimentary tickets*,” as used in Iowa Code section 90A.9, means tickets that are sold for less than 50 percent of the minimum price available to the general public and tickets for which no fee is charged.

“*Contestant*” means a person who fights or is scheduled to fight in a match.

“*Event*” means a program or card of one or more matches covered by Iowa Code chapter 90A.

“*Match*” means a mixed martial arts match.

“*Mixed martial arts*” means a style of athletic contest that includes a combination of combative skills from different disciplines of the martial arts, including, without limitation, grappling, kicking and striking.

“*MMA*” means mixed martial arts.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.2(90A) Equipment specifications.

177.2(1) Ring requirements.

a. *Size.* The cage will not be less than 16 nor more than 36 feet square.

b. *Enclosure.* The ring will be equipped with an enclosure to limit persons from being tossed from the ring. The enclosure will be at least 6 feet high. The enclosure will consist of supports and enclosing material. The supports will be constructed of rigid material not more than 4 inches in diameter. The supports will be fastened securely to the floor or to the other supports. The supports will be protected by padding to avoid injury to any contestants striking the supports. The enclosing material will have openings not to exceed 4 inches in any direction. The enclosing material will not be rigid and will deflect at least ½ inch when ten pounds of pressure are exerted upon any point. All sharp objects or protrusions will be protected with padding.

c. *Height.* The ring will not be elevated more than 3½ feet above the floor. Suitable steps for the use of contestants will be provided.

d. *Ring floor.* The ring floor will be padded to the thickness of at least 1 inch with insulite or other soft materials to be approved by the commissioner. A canvas covering stretched tightly and laced to the ring platform will cover the padding.

e. *Ring approval.* The promoter shall make the ring and ring enclosure system available in the state of Iowa for inspection by the commissioner at least ten days prior to any event. The specifications in this rule are general, and so actual inspection will be necessary to verify adequate contestant safety prior to the event. If the commissioner has previously inspected the ring used by the promoter, the commissioner may waive the ten-day advance inspection.

177.2(2) Bell. A suitable bell or gong shall be provided and used.

177.2(3) Time keeping. The timekeeper shall be provided with a stopwatch and whistle.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.3(90A) Event requirements.

177.3(1) Officials. Officials consist of three judges, two referees, the physician, and the timekeeper.

177.3(2) Referee. The referee is charged with the enforcement of all rules of the commissioner that apply to the performance and conduct of contestants and their seconds while in the ring. The referee shall wear latex gloves at all times while in the ring.

177.3(3) Timekeeper. The timekeeper will keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician, replacing a glove or adjusting any equipment during a round. The timekeeper will notify contestants at the beginning and end of each round. The timekeeper shall be impartial.

177.3(4) *Participants.* The contestants, seconds and managers are subject to approval by the commissioner.

177.3(5) *Scoring.* Three judges will score each match by evaluating striking, grappling, control of the cage, aggressiveness, and defense. The significance and number of legal strikes shall receive the greatest weight. The number of legal takedowns and reversals shall receive the second greatest weight. Control of the cage shall receive the third greatest weight. Aggression shall receive the fourth greatest weight. Defense shall receive the least weight. The winner of a round shall always receive a score of 10. The score for each round shall be one of the following:

- a. If the contestants were evenly matched and neither dominated the round, the score shall be 10-10.
- b. If a contestant won a round by a close margin, the score shall be 10-9.
- c. If a contestant overwhelmingly dominated a round, the score shall be 10-8.
- d. If a contestant totally dominated a round, the score shall be 10-7.

177.3(6) *Length of match.* Each match shall consist of no more than three rounds with no more than five minutes per round. However, the commissioner may authorize experienced contestants to compete in up to five rounds of up to five minutes each. There shall be a one-minute rest period between rounds. An overtime round shall not be allowed.

177.3(7) *Persons allowed in the cage.* No person other than the two contestants and the referee shall enter the cage during the match. However, the physician may enter the cage to examine a contestant upon the request of the referee.

177.3(8) *Seconds.*

- a. Unless special permission is granted by the commissioner, there shall be no more than two seconds. Before the start of the match, each corner shall notify the referee of the name of the chief second.
- b. Seconds shall not enter the cage except as authorized by this paragraph. The chief second may enter the cage after the timekeeper indicates the end of the round, and the chief second must leave before the beginning of a round.
- c. Before leaving the ring at the start of the round, the seconds shall remove all obstructions, buckets, stools, bottles, towels and robes from the ring floor and ring enclosure.
- d. Seconds shall not smoke in the ring or corners.
- e. Seconds shall wear latex gloves at all times while attending any contestant.
- f. Seconds shall not throw or splash water upon a contestant. Excess water on the floor of the cage shall be wiped up immediately. Water discharged from the mouth of a contestant shall be caught in a bucket.

177.3(9) *Decorum of officials and participants.*

- a. Except as allowed in this subrule, a promoter, official, or participant shall not:
 - (1) Intentionally or recklessly strike or injure a person;
 - (2) Speak or act in a threatening manner toward a person; or
 - (3) Damage, destroy, or attempt to damage or destroy property.
- b. The commissioner may immediately suspend the promoter's license if the promoter does not comply with paragraph 177.3(9)"a" or if the promoter does not take appropriate action to curtail activities in violation of paragraph 177.3(9)"a" by an official or a participant.
- c. The commissioner may immediately suspend the authorization to participate in the event of an official or a participant who does not comply with paragraph 177.3(9)"a."
- d. A contestant is exempt from subparagraphs 177.3(9)"a"(1) and 177.3(9)"a"(2) while interacting with the contestant's opponent during a round. However, if the round is stopped by the physician or referee for a time out, subparagraphs 177.4(9)"a"(1) and 177.4(9)"a"(2) shall apply to a contestant.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.4(90A) Contestants.

177.4(1) *Time between matches.* No contestant shall be permitted to compete if the contestant participated in a boxing, wrestling, kickboxing, judo, or mixed martial arts event within the previous five-day period.

177.4(2) *Age restrictions.* No contestant under the age of 18 years shall be permitted to participate in any event except by special permission of the commissioner.

177.4(3) Proper attire. Contestants must wear proper athletic attire. Athletic attire of opposing contestants shall be of contrasting colors.

177.4(4) Body protection. All male contestants shall wear a foul proof protective cup. All female contestants shall wear foul proof pelvic area protection and breast protection.

177.4(5) Mouth protection. Each contestant shall wear a mouthpiece throughout each match. If the mouthpiece is knocked from a contestant's mouth, it shall be washed and then replaced.

177.4(6) Gloves. Gloves shall be approved martial arts gloves. All gloves shall be approved by the commissioner.

177.4(7) Hand protection. Only one roll of cotton gauze surgical bandage, not to exceed 2 inches in width and 10 yards in length, shall be used for the protection of each hand. Only one winding of surgeons' adhesive tape, not more than 1½ inches in width, may be placed directly on the hand to protect that part of the hand near the wrist. The tape may cross the back of the hand twice, but shall not extend within 1 inch of the knuckles when the hand is clenched to make a fist. Practice wraps (training hand wraps) may be used in lieu of gauze and tape.

177.4(8) Hair protection. Where necessary, hair shall be secured in a manner that it will not interfere with the vision or safety of either contestant.

177.4(9) Weighing contestants.

a. The promoter shall arrange for each contestant to be weighed in Iowa during the 24-hour period prior to the event.

b. Accurate scales shall be furnished by the promoter.

c. An official who has been approved by the commissioner shall weigh each contestant and accurately record the contestant's name and weight and the date and time. The weight records shall be submitted to the commissioner on the date of the event.

d. All contestants scheduled for an event shall be weighed on the same date.

e. Contestants shall be weighed in the presence of their opponents and without shoes, clothes or equipment.

f. Unless both contestants weigh more than 205 pounds, there shall not be a weight difference of more than 20 pounds between opponents without the commissioner's consent.

g. No less than two weeks before the event, the promoter shall notify the commissioner when and where contestants will be weighed.

177.4(10) Examination of contestants. On the day of the event, at a time and place to be approved by the commissioner, the ringside physician shall conduct a rigorous physical examination to determine the contestant's fitness to participate in an MMA match. A contestant deemed not fit by the physician shall not participate in the event.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.5(90A) Procedural rules.

177.5(1) Prohibited materials in ring. Contestants shall not take anything not permitted or prohibited by these rules into the ring or pick up anything thrown into the ring and use the material or object in any way to gain an advantage over an opponent.

177.5(2) Fouls. As set forth in this subrule, the referee may penalize a contestant for fouls by disqualifying the contestant or by deducting points. The referee shall immediately determine if each foul is flagrant or accidental. "Flagrant" means the foul was intentional or reckless. "Accidental" means the foul was unintentional or incidental.

a. **Disqualification.** If the referee determines that the foul was flagrant and the contestant who was fouled is unable to continue due to an injury resulting from the foul, the contestant who committed the foul shall be disqualified.

b. **Deduction of points.** In determining the number of points to be deducted, the referee shall consider the nature and severity of the foul and its effect upon the opponent. As soon as practical after the foul, the referee shall notify the judges, contestants, and the commissioner of the number of points, if any, to be deducted from the score of the offender and whether the foul was flagrant or accidental. Points shall be deducted in the round in which the foul occurred.

c. *Continuation of match.* This paragraph governs how a match shall be continued if a foul that does not result in disqualification occurs.

(1) If a foul occurred but did not cause a serious injury, the referee may order the match to continue after a five-minute delay for recuperation. If subsequent fair blows aggravate the injury inflicted by a foul and the referee orders the contest stopped because of the injury, the outcome will be determined by scoring the completed rounds and the round during which the referee stopped the match.

(2) If an accidental foul results in a concussive impact to the head, if a contestant's chance of winning has been seriously jeopardized as a result of an accidental foul, or if a contestant is not able to continue the match due to an injury caused by an accidental foul, "no contest" will be declared or the winner will be determined based on points as set forth below.

1. "No contest" will be declared if:

- The foul occurs during the first two rounds of a match scheduled for three rounds or fewer.
- The foul occurs during the first three rounds of a match scheduled for four or five rounds.

2. The winner will be determined by scoring the completed rounds and the round during which the referee stopped the match if:

- The foul occurs during the third round of a match scheduled for three rounds.
- The foul occurs during the fourth or fifth round of a match scheduled for four or five rounds.

d. *Prohibited acts.* Each of the following actions is a foul:

- (1) Butting with the head.
- (2) Eye gouging of any kind.
- (3) Biting.
- (4) Hair pulling.
- (5) Fishhooking.
- (6) Groin attacks of any kind.
- (7) Putting a finger into any orifice, cut, or laceration on an opponent.
- (8) Small joint manipulation.
- (9) Striking to the spine or behind the ears.
- (10) Throat strikes of any kind, including, without limitation, grabbing the trachea.
- (11) Clawing, pinching or twisting the flesh.
- (12) Grabbing the clavicle.
- (13) Kicking the head of a grounded opponent.
- (14) Kneeing the head of a grounded opponent.
- (15) Stomping a grounded opponent.
- (16) Striking the kidney.
- (17) Dropping or slamming an opponent on an opponent's head or neck.
- (18) Throwing an opponent out of the cage or fenced area.
- (19) Holding the shorts or gloves of an opponent.
- (20) Spitting at an opponent.
- (21) Engaging in any unsportsmanlike conduct that causes an injury to an opponent.
- (22) Holding the ropes or the fence.
- (23) Using abusive language in the cage or fenced area.
- (24) Attacking an opponent during a break.
- (25) Attacking an opponent who is under the care of the referee.
- (26) Attacking an opponent after the bell has ended the round.
- (27) Flagrantly disregarding the instructions of the referee.
- (28) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.
- (29) Interference by a second.
- (30) Throwing in the towel during competition.
- (31) Threatening or intentionally striking or injuring any person other than the contestant's opponent.

177.5(3) *Mouth protection ejected.* If the mouth protection is knocked from a contestant's mouth, it shall be replaced with no penalty.

177.5(4) *Spitting mouth protection.* The referee shall caution a contestant who deliberately spits out a mouthpiece the first time and disqualify the contestant the second time.

177.5(5) *Gloves.* The gloves shall not be damaged or manipulated in any way by the contestants or their handlers. If a glove breaks or becomes undone during a match, the referee will instruct the timekeeper to take time out while the glove is being adjusted or replaced.

177.5(6) *Injury.* If a contestant claims to be injured or when a contestant has been injured seriously or knocked out, the referee shall immediately stop the fight and summon the attending ring physician to make an examination of the stricken fighter. If the physician decides that the contestant has been injured, the physician shall advise the referee of the severity of the injury. If the physician is of the opinion the injured contestant may be able to continue, the physician shall order a five-minute intermission, after which the physician shall make another examination and again advise the referee of the injured contestant's condition. Managers, handlers and seconds shall not attend to the stricken fighter, except at the request of the physician.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.6(90A) Decision. A professional match ends when:

177.6(1) A contestant submits.

177.6(2) The timekeeper indicates that time has expired in the final round of the match. The win will be awarded based on the judges' scores.

177.6(3) The referee stops the match.

177.6(4) The referee disqualifies a contestant for committing a foul pursuant to rule 875—177.5(90A).

177.6(5) A second or manager throws a towel into the cage to indicate the defeat of a contestant. The referee shall stop the match and award the win to the opponent.

177.6(6) A second or manager is in the cage when prohibited. The referee shall stop the match and award the win to the opponent.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.7(90A) Forfeit of purse. The commissioner, in consultation with the referee, has the power to declare forfeited all or any part of a contestant's purse whenever in the commissioner's judgment the contestant was not performing in good faith.

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

875—177.8(90A) Professional fighter registration. Each professional MMA fighter residing in Iowa shall register with the commissioner consistent with 875—subrules 173.54(2) through 173.54(4).

[ARC 8843C, IAB 1/22/25, effective 2/26/25]

These rules are intended to implement Iowa Code sections 90A.2 and 90A.5.

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[Filed ARC 8843C (Notice ARC 8416C, IAB 11/27/24), IAB 1/22/25, effective 2/26/25]

◇ Two or more ARCs

CHAPTERS 178 to 200
Reserved

CHAPTER 201
INSPECTIONS AND CERTIFICATES
[Prior to 1/14/98, see 347—Chs 41 to 49]
Rescinded IAB 8/16/06, effective 9/20/06

CHAPTERS 202 to 214
Reserved

MINIMUM WAGE

CHAPTER 215

MINIMUM WAGE SCOPE AND COVERAGE

[Prior to 10/21/98, see 347—Ch 215]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—215.1(91D) Initial employment wage rate.

215.1(1) The 90-calendar-day period set forth in Iowa Code section 91D.1(1)“d” is counted from the employee’s initial day of work.

215.1(2) If the state minimum initial employment wage rate changes during the 90-calendar-day period, the employer shall pay the new effective rate.

215.1(3) If, after less than 90 calendar days from the initial day of work, the employee’s employment is terminated and the employee is rehired by the same employer within three years of the initial hiring, the initial employment wage rate in effect at rehiring may be paid until the 90-calendar-day employment period is reached. If, after 90 calendar days from the initial day of work, the employee’s employment is terminated and the employee is rehired in less than three years from the last date of employment, the employee shall not be employed at the initial employment wage rate.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

875—215.2(91D) Definitions. As used in 875—Chapters 216 through 220:

“*Agriculture*” includes farming in all its branches and among other things includes the cultivation and tillage of the soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

“*Commerce*” means trade, commerce, transportation, transmission, or communication among the several states or between any state and any place outside thereof.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Employee*” means any individual employed by an employer. In the case of an individual employed by a public agency, the term means any individual employed by the state, political subdivision of the state, or an interstate governmental agency, other than the individual:

1. Who is not subject to the civil service laws of the state, political subdivision, or agency that employs the individual; and

2. Who:

- Holds a public elective office of that state, political subdivision, or agency,
- Is selected by the holder of the office to be a member of the holder’s personal staff,
- Is appointed by the officeholder to serve on a policy-making level,
- Is an immediate adviser to the officeholder with respect to the constitutional or legal powers of the office, or

● Is an employee in the legislative branch or legislative body of that state, political subdivision, or agency and is not employed by the legislative library of the state, political subdivision, or agency.

“*Employee*” does not mean:

1. For purposes of the definition of “person-day,” any individual employed by an employer engaged in agriculture if the individual is the parent, spouse, child, or other member of the employer’s immediate family.

2. Any individual who volunteers to perform services for a public agency that is the state, a political subdivision of the state, or an interstate government agency, if:

- The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and

- The services are not the same type of services that the individual is employed to perform for the public agency.

However, an employee of a public agency that is the state, a political subdivision of the state, or an interstate governmental agency may volunteer to perform services for any other state, political subdivision, or interstate governmental agency, including a state, political subdivision or agency with which the employing state, political subdivision, or agency has a mutual aid agreement.

“*Employer*” includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of the labor organization.

“*Enterprise*” means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements. Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of the owner is considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of an enterprise.

“*Industry*” means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.

“*Person*” means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

“*Person-day*” means any day during which an employee performs any agricultural labor for not less than one hour.

“*Produced*” means produced, manufactured, mined, handled, or in any other manner worked on in any state; and an employee is engaged in the production of goods if the employee is employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on the goods, or in any closely related process or occupation directly essential to the production thereof, in any state.

“*Public agency*” means the government of the state of Iowa, its various departments and agencies, and any political subdivision of the state.

“*Resale*” does not include the sale of goods to be used in residential or farm building construction, repair, or maintenance, provided that the sale is recognized as a bona fide retail sale in the industry.

“*Sale*” or “*sell*” includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

“*Tipped employee*” means any employee engaged in an occupation in which the employee customarily received more than \$30 a month in tips.

“*Wage*” paid to any employee includes the reasonable cost, as determined by the director, to the employer of furnishing the employee with board, lodging, or other facilities. SOURCE: 29 U.S.C. 203.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

875—215.3(91D) Exceptions. The rules contained in 875—Chapters 216 through 220 do not apply with respect to:

215.3(1) Any employee employed by an establishment that is an amusement or recreational establishment, organized camp, or religious or nonprofit education conference center, if:

- It does not operate for more than seven months in any calendar year, or
- During the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 percent of its average receipts for the other six months of the year, except that the exemption provided does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture.

215.3(2) Any employee employed in agriculture:

- If the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than 500 person-days of agricultural labor;
- If the employee is the parent, spouse, child, or other member of the employer’s immediate family;

c. If the employee:

(1) Is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment,

(2) Commutes daily from the employee's permanent residence to the farm on which the employee is employed, and

(3) Has been employed in agriculture less than 13 weeks during the preceding calendar year;

d. If the employee (other than an employee described in paragraph 215.3(2) "c"):

(1) Is 16 years of age or under, is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment,

(2) Is employed on the same farm as the employee's parent or person standing in the place of the employee's parent, and

(3) Is paid at the same piece rate as employees over age 16 are paid on the same farm; or

e. If the employee is principally engaged in the range production of livestock.

215.3(3) Any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves.

215.3(4) Any employee to the extent that the employee is exempted by a certificate of the Secretary of Labor.

SOURCE: 29 U.S.C. 213.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

875—215.4(91D) Interpretative guidelines. The rules contained in 875—Chapters 216 through 220 are based on the federal rules indicated at the end of each rule. The federal rules contained illustrative examples of the application of the rule. The examples are not adopted, but the commissioner will be guided in enforcement by the examples provided in the rules. The Secretary of Labor has adopted statements of general policy and interpretations not directly related to regulations at 29 CFR Parts 776, 779, 780, and 785. The commissioner will follow these statements and interpretations in the application and enforcement of Iowa Code chapter 91D.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 91D.

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CHAPTER 216
RECORDS TO BE KEPT BY EMPLOYERS

[Prior to 10/21/98, see 347—Ch 216]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—216.1(91D) Employees subject to minimum wage.

216.1(1) Items required. Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the Act applies:

a. Name in full, as used for social security recordkeeping purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

b. Home address, including ZIP code;

c. Basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis;

d. Hours worked each workday and total hours worked each workweek (for purposes of this rule, a "workday" is any fixed period of 24 consecutive hours and a "workweek" is any fixed and regularly recurring period of seven consecutive workdays);

e. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items that make up the total additions and deductions;

f. Date of payment and the pay period covered by payment.

216.1(2) Reserved.

SOURCE: 29 CFR 516.2.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.2(91D) Exempt employees. With respect to each exempt employee, employers shall maintain and preserve records containing all the information and data required by subrule 216.1(1), except paragraphs 216.1(1) "c" and "d," and, in addition, the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment, including fringe benefits and perquisites.

SOURCE: 29 CFR 516.3.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.3(91D) Posting of notices. Every employer employing any employees subject to the minimum wage provisions of the Iowa minimum wage Act shall post and keep posted a notice explaining the Act, as prescribed by the director, in conspicuous places in every establishment where such employees are employed so as to permit them to readily observe a copy.

SOURCE: 29 CFR 516.4.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.4(91D) Records to be preserved three years. Each employer shall preserve payroll records for at least three years from the last date of entry, all payroll or other records containing the employee information and data required under any of the applicable rules.

SOURCE: 29 CFR 516.6.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.5(91D) Records to be preserved two years.

216.5(1) Supplementary basic records. Each employer required to maintain records under this chapter shall preserve for a period of at least two years basic employment and earnings records. From the date of last entry, all basic time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay-period basis (for example, units produced) when those amounts determine, in whole or in part, the pay-period earnings or wages of those employees.

216.5(2) Records. Records of additions to or deductions from wages paid include those records relating to individual employees referred to in paragraph 216.1(1)“e.”

SOURCE: 29 CFR 516.6.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.6(91D) Tipped employees.

216.6(1) With respect to each tipped employee whose wages are determined pursuant to the definition of “wage” in Iowa Code section 91D.1(1)“c,” the employer shall maintain and preserve payroll or other records containing all the information and data otherwise required and the following:

- a. Weekly or monthly amount reported by the employee, to the employer, of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070);
- b. Amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer (not in excess of 40 percent of the applicable statutory minimum wage);
- c. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and
- d. Hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.

SOURCE: 29 CFR 516.28.

216.6(2) Federal special minimum wage certificates will be honored at the applicable Iowa minimum wage rate as applied to the certificate.

SOURCE: 29 CFR 516.30.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.7(91D) Industrial homeworkers.

216.7(1) Definitions.

“*Industrial homework*,” as used in this rule, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homemaker in production.

“*Industrial homeworker*” or “*homeworker*,” as used in this rule, means any employee employed or suffered or permitted to perform industrial homework for an employer.

216.7(2) Items required. Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to every industrial homeworker employed:

- a. Name in full, and on the same record, the employee’s identifying symbol or number if used in place of name on any time, work, or payroll records. This shall be the same as that used for social security purposes.
- b. House address, including ZIP code.
- c. Date of birth, if under 19.
- d. With respect to each lot of work:
 - (1) Piece rates paid,
 - (2) Hours worked on each lot of work turned in,
 - (3) Wages paid for each lot of work turned in, and
 - (4) Date of wage payment and pay period covered by payment.
- e. With respect to each week:
 - (1) Hours worked each week,
 - (2) Wages earned for each week at regular piece rates,
 - (3) Extra pay due each week for overtime worked, and
 - (4) Total wages earned each week.

SOURCE: 29 CFR 516.31.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.8(91D) Employees in agriculture. No records need to be maintained by an employer who did not use more than 500 days of agricultural labor in any quarter of the preceding calendar year unless it can

be reasonably anticipated that more than 500 days of agricultural labor will be used in at least one calendar quarter of the current calendar year. The 500-day test includes the work of agricultural workers supplied by crew leaders, or farm labor contractors, if the farmer is an employer of the workers, or a joint employer of the workers with the crew leader or farm labor contractor. However, members of the employer's immediate family are not included. A "day" is any day during which an employee does agricultural work for one hour or more.

SOURCE: 29 CFR 516.33.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

875—216.9(91D) Relationship to other recordkeeping and reporting requirements. Nothing in this chapter shall excuse any party from complying with any recordkeeping or reporting requirement imposed by any other federal, state, or local law, ordinance, regulation or rule.

[ARC 8748C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 91D.

[Filed emergency 11/8/89 after Notice 9/6/89—published 11/29/89, effective 1/1/90]

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[Filed ARC 8748C (Notice ARC 8268C, IAB 10/30/24), IAB 1/8/25, effective 2/12/25]

CHAPTER 217
WAGES

[Prior to 11/4/98, see 347—Ch 217]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—217.1(91D) Purpose and scope. This chapter addresses the definition of wages. Wages include the reasonable cost, as determined by the director, to an employer of furnishing any employee with board, lodging, or other facilities. Nothing in this chapter shall excuse any party from complying with any requirement imposed by any other federal, state, or local law, ordinance, regulation, or rule.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.2(91D) Reasonable cost.

217.2(1) Reasonable cost is determined to be not more than the actual cost to the employer of the board, lodging, or other facilities furnished by the employer to the employees.

217.2(2) The cost of furnishing facilities found by the director to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not be included in computing wages.

217.2(3) The following is a list of facilities found by the director to be primarily for the benefit or convenience of the employer. The list is intended to be illustrative rather than exclusive:

a. Tools of the trade and other materials and services incidental to carrying on the employer's business.

b. The cost of any construction by and for the employer.

c. The cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

SOURCE: 29 CFR 531.3.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.3(91D) Free and clear payment; kickbacks. Whether in cash or in facilities, wages cannot be considered to have been paid by the employer and received by the employee unless they are paid finally and unconditionally or free and clear. The wage requirements will not be met where the employee kicks back directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee. This is true whether the kickback is made in cash or in other than cash.

SOURCE: 29 CFR 531.35.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.4(91D) General characteristics of tips. A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for the customer. The payment is to be distinguished from payment of a charge, if any, made for the service. In the absence of an agreement to the contrary between the recipient and a third party, a tip becomes the property of the person in recognition of whose service it is presented by the customer. Only tips actually received by an employee as money belonging to that employee, which the employee may freely use absent of any control by the employer, may be counted in determining whether the employee is a tipped employee and in applying the provisions that govern wage credits for tips.

SOURCE: 29 CFR 531.52.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.5(91D) Payments that constitute tips. In addition to cash sums presented by customers that an employee keeps, tips received by an employee include amounts paid by bank check or other negotiable instrument payable at par and amounts transferred by the employer to the employee pursuant to directions from credit customers who designate amounts to be added to their bills as tips. Special gifts in forms other than money or its equivalent as above described, such as theater tickets, passes, or merchandise, are not counted as tips received by the employee for purposes of this chapter.

SOURCE: 29 CFR 531.53.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.6(91D) Tip pooling. Where employees practice tip splitting, as where food servers give a portion of their tips to the bussers, both the amounts retained by the food servers and those given the bussers are considered tips of the individuals who retain them. Similarly, where an accounting is made to an employer for information only or in furtherance of a pooling arrangement whereby the employer redistributes the tips to the employees upon some basis to which they have mutually agreed among themselves, the amounts received and retained by each employee as the individual's own are counted as the employee's tips.

SOURCE: 29 CFR 531.54.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

875—217.7(91D) Dual jobs. When an employee is employed in two occupations, no tip credit can be taken for hours of employment in the occupation for which the employee does not meet the tip qualification.

SOURCE: 29 CFR 531.56.

[ARC 8749C, IAB 1/8/25, effective 2/12/25]

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CHAPTER 218

EMPLOYEES EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESPERSON

[Prior to 11/4/98, see 347—Ch 218]

Rescinded **ARC 8750C**, IAB 1/8/25, effective 2/12/25

CHAPTER 219
DOMESTIC SERVICE
[Prior to 11/4/98, see 347—Ch 219]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—219.1(91D) Purpose and scope.

219.1(1) Employees employed on a casual basis in domestic service employment to provide babysitting services and domestic service employees employed to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves are exempt from minimum wage.

219.1(2) The minimum wage protection applies to employees employed as domestic service employees under either of the following circumstances:

a. If the employee's compensation for services from the employer would constitute wages, that is, if the compensation during a calendar year totaled \$100 or more, or

b. If the employee was employed in such domestic service work by one or more employers for more than eight hours in the aggregate in any workweek.

SOURCE: 29 CFR 552.2.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.2(91D) Domestic service employment. Domestic service employment refers to services of a household nature performed by an employee in or about a private home (permanent or temporary) of the person by whom the employee is employed.

SOURCE: 29 CFR 552.3.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.3(91D) Babysitting services. As an exemption, the term "babysitting services" means the custodial care and protection, during any part of the 24-hour day, of infants or children in or about the private home in which the infants or young children reside. The term "babysitting services" does not include services relating to the care and protection of infants or children that are performed by trained personnel, as registered, vocational, or practical nurses. While trained personnel do not qualify as babysitters, this fact does not remove them from the category of a covered domestic service employee when employed in or about a private household.

SOURCE: 29 CFR 552.4.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.4(91D) Casual basis. "Casual basis," when applied to babysitting services, means employment that is irregular or intermittent and that is not performed by an individual whose vocation is babysitting. Casual babysitting services may include the performance of some household work not related to caring for the children, provided that the work is incidental (i.e., does not exceed 20 percent of the total hours worked on the particular babysitting assignment).

SOURCE: 29 CFR 552.5.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.5(91D) Companionship services for the aged or infirm. "Companionship services" means those services that provide fellowship, care, and protection for persons who, because of advanced age or physical or mental infirmity, cannot care for their own needs. The services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that such work is incidental (i.e., does not exceed 20 percent of the total weekly hours worked). The term "companionship services" does not include services relating to the care and protection of the aged or infirm that require and are performed by trained personnel, as a registered or practical nurse. While trained personnel do not qualify as companions, this fact does not remove them from the category of covered domestic service employees when employed in or about a private household.

SOURCE: 29 CFR 552.6.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.6(91D) Application of minimum wage provisions.

219.6(1) Employers may take appropriate credit for the reasonable cost or fair value of food, lodging and other facilities customarily furnished to the employee by the employer such as drugs, cosmetics, dry cleaning, etc. Credit may be taken for the reasonable cost or fair value of these facilities only when the employee's acceptance of them is voluntary and uncoerced. Where uniforms are required by the employer, the cost of the uniforms and their care may not be included in the credit.

219.6(2) The department will accept meal credit taken by the employer consistent with 29 CFR §552.100(c) (2024).

219.6(3) The department will accept lodging credit taken by the employer consistent with 29 CFR §552.100(d) (2024).

SOURCE: 29 CFR 552.100.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.7(91D) Domestic service employment. In determining the total hours worked, the employer must include all time the employee is required to be on the premises or on duty and all time the employee is suffered or permitted to work.

SOURCE: 29 CFR 552.101.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.8(91D) Live-in domestic service employees. Domestic service employees who reside in the household where they are employed are entitled to the same minimum wage as domestic service employees who work by the day. In determining the number of hours worked by a live-in worker, the employee and the employer may exclude, by agreement between themselves, the amount of sleeping time, mealtime and other periods of complete freedom from all duties when the employee may either leave the premises or stay on the premises for purely personal pursuits. For periods of free time (other than those relating to meals and sleeping) to be excluded from hours worked, the periods must be of sufficient duration to enable the employee to make effective use of the time. If the sleeping time, meal periods or other periods of free time are interrupted by a call to duty, the interruption must be counted as hours worked.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.9(91D) Babysitting services in general. Babysitting is a form of domestic service, and babysitters other than those working on a casual basis are entitled to the same benefits as other domestic service employees.

SOURCE: 29 CFR 552.103.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.10(91D) Babysitting services performed on a casual basis.

219.10(1) Employees performing babysitting services on a casual basis are excluded from the minimum wage provisions.

219.10(2) Employment in babysitting services would usually be on a casual basis, whether performed for one or more employers, if the employment by all employers does not exceed 20 hours per week in the aggregate. Employment in excess of these hours may still be on a casual basis if the excessive hours of employment are without regularity or are for irregular or intermittent periods. Employment in babysitting services is on a casual basis (regardless of the number of weekly hours worked by the babysitter) in the case of individuals whose vocations are not domestic service who accompany families for a vacation period to take care of the children if the duration of employment does not exceed six weeks.

219.10(3) If the individual performing babysitting services on a casual basis devotes more than 20 percent of the individual's time to household work during a babysitting assignment, the exemption for "babysitting services on a casual basis" does not apply during that assignment and the individual must be paid in accordance with the minimum wage requirement. This does not affect the application of the

exemption for previous or subsequent babysitting assignments where the 20 percent tolerance is not exceeded.

219.10(4) Individuals who engage in babysitting as a full-time occupation are not employed on a casual basis.

SOURCE: 29 CFR 552.104.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.11(91D) Individuals performing babysitting services in their own homes.

219.11(1) The coverage of domestic service employees is limited to those persons who perform such services in or about the private household of the employer.

219.11(2) An individual in a local neighborhood who takes four or five children into the individual's home, which is operated as a day care home, and who does not have more than one employee or whose only employees are members of that individual's immediate family is not covered by Iowa Code chapter 91D.

SOURCE: 29 CFR 552.105.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.12(91D) Companionship services for the aged or infirm. Persons who provide care and protection for babies and young children, who are not physically or mentally infirm, are considered babysitters, not companions. The companion must perform the services with respect to the aged or infirm persons and not generally to other persons. The casual limitation does not apply to companion services.

SOURCE: 29 CFR 552.106.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.13(91D) Yard maintenance workers. Persons who mow lawns and perform other yard work in a neighborhood community generally provide their own equipment, set their own work schedule and occasionally hire other individuals. These persons will be recognized as independent contractors who are not covered by Iowa Code section 91D.1 as domestic service employees.

SOURCE: 29 CFR 552.107.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

875—219.14(91D) Third-party employment.

219.14(1) Employees who are engaged in providing companionship services and who are employed by an employer or agency other than the family or household using their services are exempt from the minimum wage requirement. Assigning an employee to more than one household or family in the same workweek would not defeat the exemption for that workweek, provided that the services rendered during each assignment come within the definition of companionship services.

219.14(2) Employees who are engaged in providing babysitting services and who are employed by an employer or agency other than the family or household using their services are not employed on a casual basis for purposes of the exemption. The employees are engaged in this occupation as a vocation.

SOURCE: 29 CFR 552.109.

[ARC 8754C, IAB 1/8/25, effective 2/12/25]

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CHAPTER 220
EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

[Prior to 11/4/98, see 347—Ch 220]

Chapter rescission date pursuant to Iowa Code section 17A.7: 2/12/30

875—220.1(91D) Definition.

“Public agency” means the state of Iowa or political subdivision of the state.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.2(91D) Exclusion for elected officials and their appointees.

220.2(1) Elected officials are excluded from minimum wage. Also excluded under this provision are personal staff members and officials in policymaking positions who are selected or appointed by the elected public officials and certain advisers to such officials.

220.2(2) The statutory term “member of personal staff” generally includes only persons who are under the direct supervision of the selecting elected official and have regular contact with the official.

220.2(3) In order to qualify as personal staff members or officials in policymaking positions, the individuals in question must not be subject to the civil service laws of their employing agencies. The term “civil service laws” refers to a personnel system established by law that is designed to protect employees from arbitrary action, personal favoritism, and political coercion, and that uses a competitive or merit examination process for selection and placement. Continued tenure of employment of employees under civil service, except for cause, is provided. In addition, personal staff members must be appointed by, and serve solely at the pleasure or discretion of, the elected official.

220.2(4) The exclusion for “immediate adviser” to elected officials is limited to staff who serve as advisers on constitutional or legal matters, and who are not subject to the civil service rules of their employing agency.

SOURCE: 29 CFR 553.11.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.3(91D) Exclusion for employees of legislative branches.

220.3(1) Individuals who are not subject to the civil service laws of their employing agencies and are employed by legislative branches or bodies of the state and its political subdivisions are excluded from minimum wage.

220.3(2) Employees of the state or local legislative libraries do not come within this statutory exclusion. Also, employees of school boards, other than elected officials and their appointees, do not come within this exclusion.

SOURCE: 29 CFR 553.12.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.4(91D) Introduction. A public agency that is the state or a political subdivision of the state is authorized to provide compensatory time off in lieu of monetary overtime compensation.

SOURCE: 29 CFR 553.20.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.5(91D) Compensatory time and compensatory time off. The terms “compensatory time” and “compensatory time off” mean hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee’s regular rate.

SOURCE: 29 CFR 553.21.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.6(91D) Payments for unused compensatory time.

220.6(1) Payments for accrued compensatory time may be made at any time and shall be paid at the regular rate earned by the employee at the time the employee receives such payment.

220.6(2) Upon termination of employment, an employee shall be paid for unused compensatory time at a rate of compensation not less than:

a. The average regular rate received by the employee during the last three years of the employee's employment, or

b. The final regular rate received by the employee, whichever is higher.

220.6(3) The phrase "last three years of employment" means the three-year period immediately prior to termination. Where an employee's last three years of employment are not continuous because of a break in service, the period of employment after the break in service will be treated as new employment. However, a break in service must have been intended to be permanent and any accrued compensatory time must have been cashed out at the time of initial separation. Where the final period of employment is less than three years, the average rate still must be calculated based on the rate(s) in effect during the period.

SOURCE: 29 CFR 553.27.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.7(91D) Other compensatory time.

220.7(1) Compensatory time that is earned and accrued by an employee for employment in excess of a nonstatutory requirement is considered "other" compensatory time. The term "other" compensatory time off means hours during which an employee is not working and that are not counted as hours worked during the period when used.

220.7(2) The rate at which "other" compensatory time is earned is not required to be at a rate of one and one-half hours for each hour of employment. The rate at which "other" compensatory time is earned may be some lesser or greater multiple of the rate or the straight-time rate itself.

SOURCE: 29 CFR 553.28.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

OTHER EXEMPTIONS

875—220.8(91D) Substitution.

220.8(1) Individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours in performance of work in the same capacity. Where one employee substitutes for another, each employee will be credited as if the employee had worked the normal work schedule for that shift.

220.8(2) An employee's decision to substitute will be considered to have been made at the employee's sole option when it has been made:

a. Without fear of reprisal or promise of reward by the employer, and

b. Exclusively for the employee's own convenience.

SOURCE: 29 CFR 553.31.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

RECORDKEEPING

875—220.9(91D) Records to be kept of compensatory time. For each employee subject to the compensatory time and compensatory time off provisions of the federal Fair Labor Standards Act, 29 U.S.C. 207(o) as amended to January 1, 2007, a public agency shall maintain and preserve the following records:

220.9(1) The number of hours of compensatory time earned each work period, by each employee at the rate of one and one-half hour for each overtime hour worked;

220.9(2) The number of hours of compensatory time used each workweek, or other applicable work period, by each employee;

220.9(3) The number of hours of compensatory time compensated in cash, the total amount paid and the date of payment; and

220.9(4) Any collective bargaining agreement or written understanding or agreement with respect to earning and using compensatory time off.

SOURCE: 29 CFR 553.50.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

VOLUNTEERS

875—220.10(91D) General. Individuals performing volunteer services for units of the state and local governments will not be regarded as “employees.”

SOURCE: 29 CFR 553.100.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.11(91D) Volunteer defined.

220.11(1) An individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, is considered to be a volunteer.

220.11(2) Individuals are considered volunteers only where their services are offered freely and without pressure or coercion, direct or implied, from an employer.

220.11(3) An individual is not to be considered a volunteer if the individual is otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.

SOURCE: 29 CFR 553.101.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.12(91D) Employment by the same public agency. An individual may not perform hours of volunteer service for a public agency when the hours involve the same type of services that the individual is employed to perform for the same public agency.

SOURCE: 29 CFR 553.102.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.13(91D) Same type of services defined. The duties and all the facts and circumstances in a particular case will be considered in determining whether the volunteer activities constitute the “same type of services” as the employment activities.

SOURCE: 29 CFR 553.103.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.14(91D) Private individuals who volunteer services to public agencies. Individuals who are not employed in any capacity by state or local government agencies are considered volunteers and not employees of such public agencies if the individual’s hours of service are provided with no promise, expectation, or receipt of compensation for the services rendered.

SOURCE: 29 CFR 553.104.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.15(91D) Payment of expenses, benefits, or fees.

220.15(1) Individuals would not lose their volunteer status because they are reimbursed for the approximate out-of-pocket expenses incurred incidental to providing volunteer services; for example, payment for the cost of meals and transportation expenses.

220.15(2) Individuals do not lose their status as volunteers because they are reimbursed for tuition, transportation and meal costs involved in their attending classes intended to teach them to perform efficiently the services they provide or will provide as volunteers. Likewise, the volunteer status of individuals is not lost if they are provided books, supplies, or other materials essential to their volunteer training or reimbursement for the cost thereof.

220.15(3) Individuals do not lose their volunteer status if they are provided reasonable benefits by a public agency for whom they perform volunteer services. Benefits would be considered reasonable, for example, when they involve inclusion of individual volunteers in group insurance plans (such as liability, health, life, disability, workers’ compensation) or pension plans or length of service awards, commonly or traditionally provided to volunteers of government agencies.

220.15(4) Individuals do not lose their volunteer status if they receive a nominal fee from a public agency. A nominal fee is not a substitute for compensation and shall not be tied to productivity. However, this does not preclude the payment of a nominal amount on a “per call” or similar basis to volunteer firefighters. The following factors will be among those examined in determining whether a given amount is nominal:

- a. The distance traveled and the time and effort expended by the volunteer;
- b. Whether the volunteer has agreed to be available around the clock or only during certain specified time periods; and
- c. Whether the volunteer provides services as needed or throughout the year. An individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

220.15(5) Whether the furnishing of expenses, benefits, or fees would result in individuals losing their status as volunteers can only be determined by examining the total amount of payments made (expenses, benefits, fees) in the context of the economic realities of the particular situation.

SOURCE: 29 CFR 553.106.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

FIRE PROTECTION AND LAW ENFORCEMENT
EMPLOYEES OF PUBLIC AGENCIES

875—220.16(91D) Compensable hours of work.

220.16(1) Compensable hours of work generally include all of the time during which an employee is on duty on the employer’s premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. The time includes all preshift and postshift activities that are an integral part of the employee’s principal activity or that are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and racking fire hoses.

220.16(2) Time spent away from the employer’s premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work.

220.16(3) Normal home-to-work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer’s premises.

220.16(4) A police officer, who has completed the tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time, even where the radio must be left on so that the officer can respond to emergency calls.

SOURCE: 29 CFR 553.221.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.17(91D) Sleep time.

220.17(1) Sleep time cannot be excluded from the compensable hours of work where:

- a. The employee is on a tour of duty of less than 24 hours, and
- b. Where the employee is on a tour of duty of exactly 24 hours.

220.17(2) Sleep time can be excluded from compensable hours of work in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude the time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night’s sleep (which, for enforcement purposes means at least five hours), the entire time must be counted as hours of work.

SOURCE: 29 CFR 553.222.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.18(91D) Early relief. It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. This practice will not have the effect of increasing the number of compensable hours of work where it is voluntary on the part of the employees. If the practice is required by the employer, the time involved must be treated as compensable hours of work.

SOURCE: 29 CFR 553.225.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

875—220.19(91D) Training time.

220.19(1) While time spent in attending training required by an employer is normally considered compensable hours of work, the following are situations where time spent by employees of governments in required training is considered to be noncompensable.

a. Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

b. Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

220.19(2) Police officers or firefighters who are in attendance at a police or fire academy or other training facility are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits.

SOURCE: 29 CFR 553.226.

[ARC 8755C, IAB 1/8/25, effective 2/12/25]

These rules are intended to implement Iowa Code chapter 91D.

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CHAPTERS 221 to 299
Reserved

CHAPTER 300
ADMINISTRATIVE HEARINGS

[Prior to 11/29/89, see 347—Chapter 200]

[Prior to 11/4/98, see 347—Ch 300]

Rescinded IAB 6/2/99, effective 7/1/99