

# LABOR SERVICES DIVISION[875]

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

## CHAPTER 1

Reserved

*IOWA OCCUPATIONAL  
SAFETY AND HEALTH*

## CHAPTERS 2 to 30

Reserved

*CHILD LABOR*

## CHAPTERS 31 to 60

Reserved

*AMUSEMENT RIDES, DEVICES, AND CONCESSION BOOTHS*

## CHAPTERS 61 to 64

Reserved

*ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT*

## CHAPTERS 65 to 79

Reserved

*BOILERS AND PRESSURE VESSELS*

## CHAPTERS 80 to 109

Reserved

*RIGHT TO KNOW*

## CHAPTERS 110 to 149

Reserved

*CONSTRUCTION—REGISTRATION AND BONDING*

## CHAPTERS 150 to 155

Reserved

## CHAPTER 156

### BIDDER PREFERENCES IN GOVERNMENT CONTRACTING

- 156.1(73A) Purpose, scope and definitions
- 156.2(73A) Reporting of resident status of bidders
- 156.3(73A) Application of preference
- 156.4(73A) Complaints regarding alleged violations of the Act
- 156.5(73A) Nonresident bidder record-keeping requirements
- 156.6(73A) Investigations; determination of civil penalty
- 156.7(73A) Remedies
- 156.8(73A) Compliance with federal law
- 156.9(73A) Severability



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Rescinded **ARC 8826C**, IAB 1/22/25, effective 2/26/25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

CHAPTER 2  
IOSH ENFORCEMENT, IOSH RESEARCH AND STATISTICS,  
IOSH CONSULTATION AND EDUCATION

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Rescinded **ARC 4639C**, IAB 8/28/19, effective 10/2/19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

Transferred to 481—Chapter 203, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 204, IAC Supplement 7/9/25

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]

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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Rescinded, effective 1/28/81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]

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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]

Transferred to 481—Chapter 209, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 210, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 211, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 212, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 213, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 240, IAC Supplement 7/9/25

CHAPTER 33  
Reserved

CHAPTER 34  
WAGE CIVIL PENALTIES  
Transferred to 481—Chapter 227, IAC Supplement 7/9/25

CHAPTER 35  
WAGE CLAIMS

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

Transferred to 481—Chapter 225, IAC Supplement 7/9/25

CHAPTER 36  
WAGE DISCRIMINATION

[Prior to 9/24/86, Labor, Bureau of [530]]  
[Prior to 10/21/98, see 347—Ch 36]

Transferred to 481—Chapter 236, IAC Supplement 7/9/25

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 60  
Reserved

*AMUSEMENT RIDES, DEVICES, AND CONCESSION BOOTHS*

CHAPTER 61  
AMUSEMENT RIDE INSPECTIONS

[Prior to 9/24/86, Labor, Bureau of [530]]  
[Prior to 10/21/98, see 347—Ch 61]

Transferred to 481—Chapter 461, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 462, IAC Supplement 7/9/25

CHAPTER 63  
SAFETY RULES FOR BUNGEE JUMPS  
Transferred to 481—Chapter 463, IAC Supplement 7/9/25

CHAPTER 64  
Reserved  
*ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT*

CHAPTER 65  
ELEVATOR SAFETY BOARD ADMINISTRATIVE AND REGULATORY AUTHORITY  
Transferred to 481—Chapter 365, IAC Supplement 7/9/25

CHAPTER 66  
WAIVERS FROM ADMINISTRATIVE RULES BY THE ELEVATOR SAFETY BOARD  
Transferred to 481—Chapter 366, IAC Supplement 7/9/25

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  
Transferred to 481—Chapter 367, IAC Supplement 7/9/25

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  
Transferred to 481—Chapter 371, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 372, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 373, IAC Supplement 7/9/25

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

Transferred to 481—Chapter 380, IAC Supplement 7/9/25

CHAPTER 81

BOILER AND PRESSURE VESSEL BOARD WAIVERS

Transferred to 481—Chapter 381, IAC Supplement 7/9/25

CHAPTER 82

BOILER AND PRESSURE VESSEL BOARD PETITIONS FOR RULE MAKING

Rescinded **ARC 8884C**, IAB 2/19/25, effective 3/26/25

CHAPTER 83

DECLARATORY ORDERS BY THE BOILER AND PRESSURE VESSEL BOARD

Rescinded **ARC 8885C**, IAB 2/19/25, effective 3/26/25

CHAPTER 84

CONTESTED CASES BEFORE THE BOILER AND PRESSURE VESSEL BOARD

Transferred to 481—Chapter 382, IAC Supplement 7/9/25

CHAPTER 85

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES  
OF THE BOILER AND PRESSURE VESSEL BOARD

Rescinded **ARC 8893C**, IAB 2/19/25, effective 3/26/25

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]

Transferred to 481—Chapter 390, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 391, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 392, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 393, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 394, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 395, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 220, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 221, IAC Supplement 7/9/25

CHAPTERS 141 to 149  
Reserved  
*CONSTRUCTION—REGISTRATION AND BONDING*

CHAPTER 150  
CONSTRUCTION CONTRACTOR REGISTRATION  
[Prior to 10/21/98, see 347—Ch 150]  
Transferred to 481—Chapter 465, IAC Supplement 7/9/25

CHAPTERS 151 to 154  
Reserved

CHAPTER 155  
ASBESTOS REMOVAL AND ENCAPSULATION  
[Prior to 10/18/00, see 875—Chs 81 and 82]  
Transferred to 481—Chapter 475, IAC Supplement 7/9/25



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]  
Transferred to 481—Chapter 245, IAC Supplement 7/9/25

CHAPTERS 161 to 168  
Reserved  
*ATHLETICS COMMISSIONER*

CHAPTER 169  
GENERAL REQUIREMENTS FOR ATHLETIC COMMISSION EVENTS  
Transferred to 481—Chapter 250, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 260, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 257, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 251, IAC Supplement 7/9/25

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]  
Transferred to 481—Chapter 252, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 255, IAC Supplement 7/9/25

CHAPTER 177

MIXED MARTIAL ARTS

[Prior to 10/21/98, see 347—Ch 101]

[Prior to 8/16/06, see 875—Ch 101]

Transferred to 481—Chapter 254, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 230, IAC Supplement 7/9/25

CHAPTER 216

RECORDS TO BE KEPT BY EMPLOYERS

[Prior to 10/21/98, see 347—Ch 216]

Transferred to 481—Chapter 234, IAC Supplement 7/9/25

CHAPTER 217

WAGES

[Prior to 11/4/98, see 347—Ch 217]

Transferred to 481—Chapter 233, IAC Supplement 7/9/25

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]

Transferred to 481—Chapter 231, IAC Supplement 7/9/25

CHAPTER 220

EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

[Prior to 11/4/98, see 347—Ch 220]

Transferred to 481—Chapter 232, IAC Supplement 7/9/25

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